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# PAPERS

RELATING TO

# FOREIGN AFFAIRS,

ACCOMPANYING THE

## ANNUAL MESSAGE OF THE PRESIDENT

TO THE

THIRD SESSION FORTIETH CONGRESS.

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PART I.

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RELATING TO

# FOREIGN AFFAIRS.

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# MESSAGE.

*Fellow-citizens of the Senate and House of Representatives:*

Upon the reassembling of Congress, it again becomes my duty to call your attention to the state of the Union, and to its continued disorganized condition under the various laws which have been passed upon the subject of reconstruction.

It may be safely assumed, as an axiom in the government of States, that the greatest wrongs inflicted upon a people are caused by unjust and arbitrary legislation, or by the unrelenting decrees of despotic rulers, and that the timely revocation of injurious and oppressive measures is the greatest good that can be conferred upon a nation. The legislator or ruler who has the wisdom and magnanimity to retrace his steps, when convinced of error, will sooner or later be rewarded with the respect and gratitude of an intelligent and patriotic people.

Our own history—although embracing a period less than a century—affords abundant proof that most, if not all, of our domestic troubles are directly traceable to violations of the organic law and excessive legislation. The most striking illustrations of this fact are furnished by the enactments of the past three years upon the question of reconstruction. After a fair trial, they have substantially failed and proved pernicious in their results, and there seems to be no good reason why they should longer remain upon the statute-book. States to which the Constitution guarantees a republican form of government have been reduced to military dependencies, in each of which the people have been made subject to the arbitrary will of the commanding general. Although the Constitution requires that each State shall be represented in Congress, Virginia, Mississippi, and Texas are yet excluded from the two Houses, and, contrary to the express provisions of that instrument, were denied participation in the recent election for a President and Vice-President of the United States. The attempt to place the white population under the domination of persons of color in the south has impaired, if not destroyed, the kindly relations that had previously existed between them; and mutual distrust has engendered a feeling of animosity which, leading in some instances to collision and bloodshed, has prevented that co-operation between the two races so essential to the success of industrial enterprises in the southern States. Nor have the inhabitants of those States alone suffered from the disturbed condition of affairs growing out of these congressional enactments. The entire Union has been agitated by grave apprehensions of troubles which might again involve the peace of the nation; its interests have been injuriously affected by the derangement of business and labor, and the consequent want of prosperity throughout that portion of the country.

The Federal Constitution—the *magna charta* of American rights, under whose wise and salutary provisions we have successfully conducted all our domestic and foreign affairs, sustained ourselves in peace and in war, and become a great nation among the powers of the earth—must assuredly be now adequate to the settlement of questions growing out of the civil war waged alone for its vindication. This great fact is

made most manifest by the condition of the country when Congress assembled in the month of December, 1865. Civil strife had ceased; the spirit of rebellion had spent its entire force; in the southern States the people had warmed into national life, and throughout the whole country a healthy reaction in public sentiment had taken place. By the application of the simple yet effective provisions of the Constitution, the Executive department, with the voluntary aid of the States, had brought the work of restoration as near completion as was within the scope of its authority, and the nation was encouraged by the prospect of an early and satisfactory adjustment of all its difficulties. Congress, however, intervened, and, refusing to perfect the work so nearly consummated, declined to admit members from the unrepresented States, adopted a series of measures which arrested the progress of restoration, frustrated all that had been so successfully accomplished, and, after three years of agitation and strife, has left the country further from the attainment of union and fraternal feeling than at the inception of the congressional plan of reconstruction. It needs no argument to show that legislation which has produced such baneful consequences should be abrogated, or else made to conform to the genuine principles of republican government.

Under the influence of party passion and sectional prejudice other acts have been passed not warranted by the Constitution. Congress has already been made familiar with my views respecting the "tenure of office bill." Experience has proved that its repeal is demanded by the best interests of the country, and that while it remains in force the President cannot enjoin the rigid accountability of public officers so essential to an honest and efficient execution of the laws. Its revocation would enable the Executive department to exercise the power of appointment and removal in accordance with the original design of the Federal Constitution.

The act of March 2, 1867, making appropriations for the support of the army for the year ending June 30, 1868, and for other purposes, contains provisions which interfere with the President's constitutional functions as commander-in-chief of the army, and deny to States of the Union the right to protect themselves by means of their own militia. These provisions should be at once annulled; for while the first might, in times of great emergency, seriously embarrass the Executive in efforts to employ and direct the common strength of the nation for its protection and preservation, the other is contrary to the express declaration of the Constitution, that "a well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

It is believed that the repeal of all such laws would be accepted by the American people as at least a partial return to the fundamental principles of the government, and an indication that hereafter the Constitution is to be made the nation's safe and unerring guide. They can be productive of no permanent benefit to the country, and should not be permitted to stand as so many monuments of the deficient wisdom which has characterized our recent legislation.

The condition of our finances demands the early and earnest consideration of Congress. Compared with the growth of our population, the public expenditures have reached an amount unprecedented in our history.

The population of the United States in 1790 was nearly four millions of people. Increasing each decade about thirty-three per cent., it reached in 1860 thirty-one millions—an increase of seven hundred per

cent. on the population in 1790. In 1869 it is estimated that it will reach thirty-eight millions, or an increase of eight hundred and sixty-eight per cent. in seventy-nine years.

The annual expenditures of the federal government in 1791 were four million two hundred thousand dollars; in 1820, eighteen million two hundred thousand dollars; in 1850, forty-one millions; 1860, sixty-three millions; in 1865, nearly thirteen hundred millions; and in 1869 it is estimated by the Secretary of the Treasury, in his last annual report, that they will be three hundred and seventy-two millions.

By comparing the public disbursements of 1869, as estimated, with those of 1791, it will be seen that the increase of expenditure since the beginning of the government has been eight thousand six hundred and eighteen per centum, while the increase of the population for the same period was only eight hundred and sixty-eight per centum. Again: the expenses of the government in 1860, the year of peace immediately preceding the war, were only sixty-three millions; while in 1869, the year of peace three years after the war, it is estimated they will be three hundred and seventy-two millions—an increase of four hundred and eighty-nine per centum, while the increase of population was only twenty-one per centum for the same period.

These statistics further show that in 1791 the annual national expenses, compared with the population, were little more than one dollar per capita, and in 1860 but two dollars per capita; while in 1869 they will reach the extravagant sum of nine dollars and seventy-eight cents per capita.

It will be observed that all of these statements refer to and exhibit the disbursements of peace periods. It may, therefore, be of interest to compare the expenditures of the three war periods—the war with Great Britain, the Mexican war, and the war of the rebellion.

In 1814 the annual expenses incident to the war of 1812 reached their highest amount—about thirty-one millions; while our population slightly exceeded eight millions, showing an expenditure of only three dollars and eighty cents per capita. In 1847 the expenditures growing out of the war with Mexico reached fifty-five millions, and the population about twenty-one millions, giving only two dollars and sixty cents per capita for the war expenses of that year. In 1865 the expenditures called for by the rebellion reached the vast amount of twelve hundred and ninety millions, which, compared with a population of thirty-four millions, gives thirty-eight dollars and twenty cents per capita.

From the fourth day of March, 1789, to the thirtieth day of June, 1861, the entire expenditures of the government were seventeen hundred millions of dollars. During that period we were engaged in wars with Great Britain and Mexico, and were involved in hostilities with powerful Indian tribes; Louisiana was purchased from France at a cost of fifteen millions of dollars; Florida was ceded to us by Spain for five millions; California was acquired from Mexico for fifteen millions; and the Territory of New Mexico was obtained from Texas for the sum of ten millions. Early in 1861 the war of the rebellion commenced; and from the first of July of that year to the 30th of June, 1865, the public expenditures reached the enormous aggregate of thirty-three hundred millions. Three years of peace have intervened, and during that time the disbursements of the government have successively been five hundred and twenty millions, three hundred and forty-six millions, and three hundred and ninety-three millions. Adding to these amounts three hundred and seventy-two millions, estimated as necessary for the fiscal year ending the 30th of June, 1869, we obtain a total expenditure of sixteen hundred millions of dollars during the four years immediately succeeding the

war, or nearly as much as was expended during the seventy-two years that preceded the rebellion, and embraced the extraordinary expenditures already named.

These startling facts clearly illustrate the necessity of retrenchment in all branches of the public service. Abuses which were tolerated during the war for the preservation of the nation will not be endured by the people now that profound peace prevails. The receipts from internal revenues and customs have, during the past three years, gradually diminished, and the continuance of useless and extravagant expenditures will involve us in national bankruptcy, or else make inevitable an increase of taxes already too onerous, and in many respects obnoxious on account of their inquisitorial character. One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional; one hundred and fifty millions are required each year to pay the interest on the public debt; an army of tax-gatherers impoverishes the nation; and public agents, placed by Congress beyond the control of the Executive, divert from their legitimate purposes large sums of money which they collect from the people in the name of the government. Judicious legislation and prudent economy can alone remedy defects and avert evils which, if suffered to exist, cannot fail to diminish confidence in the public councils, and weaken the attachment and respect of the people towards their political institutions. Without proper care the small balance which it is estimated will remain in the treasury at the close of the present fiscal year will not be realized, and additional millions be added to a debt which is now enumerated by billions.

It is shown, by the able and comprehensive report of the Secretary of the Treasury, that the receipts for the fiscal year ending June 30, 1868, were $405,638,083, and that the expenditures for the same period were $377,340,284, leaving in the treasury a surplus of $28,297,798. It is estimated that the receipts during the present fiscal year ending June 30, 1869, will be $341,392,868, and the expenditures $336,152,470, showing a small balance of $5,240,398 in favor of the government. For the fiscal year ending June 30, 1870, it is estimated that the receipts will amount to $327,000,000, and the expenditures to $303,000,000, leaving an estimated surplus of $24,000,000.

It becomes proper, in this connection, to make a brief reference to our public indebtedness, which has accumulated with such alarming rapidity and assumed such colossal proportions.

In 1789, when the government commenced operations under the federal Constitution, it was burdened with an indebtedness of seventy-five millions of dollars, created during the war of the Revolution. This amount had been reduced to forty-five millions of dollars when, in 1812, war was declared against Great Britain. The three years' struggle that followed largely increased the national obligations, and in 1816 they had attained the sum of one hundred and twenty-seven millions. Wise and economical legislation, however, enabled the government to pay the entire amount within a period of twenty years, and the extinguishment of the national debt filled the land with rejoicing, and was one of the great events of President Jackson's administration. After its redemption a large fund remained in the treasury, which was deposited for safe-keeping with the several States, on condition that it should be returned when required by the public wants. In 1849—the year after the termination of an expensive war with Mexico—we found ourselves involved in a debt of sixty-four millions; and this was the amount owed by the government in 1860, just prior to the outbreak of the rebellion. In the

spring of 1861 our civil war commenced. Each year of its continuance made an enormous addition to the debt; and when, in the spring of 1865, the nation successfully emerged from the conflict, the obligations of the government had reached the immense sum of $2,873,992,909. The Secretary of the Treasury shows that on the 1st day of November, 1867, this amount had been reduced to $2,491,504,450; but at the same time his reports exhibits an increase during the past year of $35,625,102; for the debt on the 1st day of November last is stated to have been $2,527,129,552. It is estimated by the Secretary that the returns for the past month will add to our liabilities the further sum of eleven millions, making a total increase during thirteen months of forty six and a half millions.

In my message to Congress of December 4, 1865, it was suggested that a policy should be devised which, without being oppressive to the people, would at once begin to effect a reduction of the debt, and, if persisted in, discharge it fully within a definite number of years. The Secretary of the Treasury forcibly recommends legislation of this character, and justly urges that the longer it is deferred the more difficult must become its accomplishment. We should follow the wise precedents established in 1789 and 1816, and without further delay make provisions for the payment of our obligations at as early a period as may be practicable. The fruits of their labors should be enjoyed by our citizens, rather than be used to build up and sustain moneyed monopolies in our own and other lands Our foreign debt is already computed by the Secretary of the Treasury at eight hundred and fifty millions; citizens of foreign countries receive interest upon a large portion of our securities, and American tax-payers are made to contribute large sums for their support. The idea that such a debt is to become permanent should be at all times discarded, as involving taxation too heavy to be borne, and payment once in every sixteen years, at the present rate of interest, of an amount equal to the original sum. This vast debt, if permitted to become permanent and increasing, must eventually be gathered into the hands of a few, and enable them to exert a dangerous and controlling power in the affairs of the government. The borrowers would become servants to the lenders—the lenders the masters of the people. We now pride ourselves upon having given freedom to four millions of the colored race; it will then be our shame that forty millions of people, by their own toleration of usurpation and profligacy, have suffered themselves to become enslaved, and merely exchanged slave-owners for new taskmasters in the shape of bondholders and tax-gatherers. Besides, permanent debts pertain to monarchical governments, and, tending to monopolies, perpetuities, and class legislation, are totally irreconcilable with free institutions. Introduced into our republican system, they would gradually but surely sap its foundations, eventually subvert our governmental fabric, and erect upon its ruins a moneyed aristocracy. It is our sacred duty to transmit unimpaired to our posterity the blessings of liberty which were bequeathed to us by the founders of the republic, and by our example teach those who are to follow us carefully to avoid the dangers which threaten a free and independent people.

Various plans have been proposed for the payment of the public debt. However they may have varied as to the time and mode in which it should be redeemed, there seems to be a general concurrence as to the propriety and justness of a reduction in the present rate of interest. The Secretary of the Treasury in his report recommends five per cent.; Congress, in a bill passed prior to adjournment on the 27th of July last, agreed upon four and four and a half per cent.; while by many three per

cent. has been held to be an amply sufficient return for the investment, The general impression as to the exorbitancy of the existing rate of interest has led to an inquiry in the public mind respecting the consideration which the government has actually received for its bonds, and the conclusion is becoming prevalent that the amount which it obtained was in real money three or four hundred per cent. less than the obligations which it issued in return. It cannot be denied that we are paying an extravagant percentage for the use of the money borrowed, which was paper currency, greatly depreciated below the value of coin. This fact is made apparent when we consider that bondholders receive from the treasury, upon each dollar they own in government securities, six per cent. in gold, which is nearly or quite equal to nine per cent. in currency; that the bonds are then converted into capital for the national banks, upon which those institutions issue their circulation, bearing six per cent. interest; and that they are exempt from taxation by the government and the States, and thereby enhance two per cent. in the hands of the holders. We thus have an aggregate of seventeen per cent. which may be received upon each dollar by the owners of government securities. A system that produces such results is justly regarded as favoring a few at the expense of the many, and has led to the further inquiry whether our bondholders, in view of the large profits which they have enjoyed, would themselves be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration and at the same time be just to the tax-payers of the nation. Our national credit should be sacredly observed; but in making provision for our creditors we should not forget what is due to the masses of the people. It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be overanxious in exacting from the borrower rigid compliance with the letter of the bond.

If provision be made for the payment of the indebtedness of the government in the manner suggested, our nation will rapidly recover its wonted prosperity. Its interests require that some measure should be taken to release the large amount of capital invested in the securities of the government. It is not now merely unproductive, but in taxation annually consumes one hundred and fifty millions of dollars, which would otherwise be used by our enterprising people in adding to the wealth of the nation. Our commerce, which at one time successfully rivaled that of the great maritime powers, has rapidly diminished, and our industrial interests are in a depressed and languishing condition. The development of our inexhaustible resources is checked, and the fertile fields of the south are becoming waste for want of means to till them. With the release of capital, new life would be infused into the paralyzed energies of our people, and activity and vigor imparted to every branch of industry. Our people need encouragement in their efforts to recover from

the effects of the rebellion and of injudicious legislation; and it should be the aim of the government to stimulate them by the prospect of an early release from the burdens which impede their prosperity. If we cannot take the burdens from their shoulders, we should at least manifest a willingness to help to bear them.

In referring to the condition of the circulating medium I shall merely reiterate, substantially, that portion of my last annual message which relates to that subject.

The proportion which the currency of any country should bear to the whole value of the annual produce circulated by its means is a question upon which political economists have not agreed. Nor can it be controlled by legislation, but must be left to the irrevocable laws which everywhere regulate commerce and trade. The circulating medium will ever irresistibly flow to those points where it is in greatest demand. The law of demand and supply is as unerring as that which regulates the tides of the ocean; and indeed currency, like the tides, has its ebbs and flows throughout the commercial world.

At the beginning of the rebellion the bank-note circulation of the country amounted to not much more than two hundred millions of dollars; now the circulation of national bank notes and those known as "legal tenders" is nearly seven hundred millions. While it is urged by some that this amount should be increased, others contend that a decided reduction is absolutely essential to the best interests of the country. In view of these diverse opinions, it may be well to ascertain the real value of our paper issues when compared with a metallic or convertible currency. For this purpose, let us inquire how much gold and silver could be purchased by the seven hundred millions of paper money now in circulation. Probably not more than half the amount of the latter—showing that when our paper currency is compared with gold and silver its commercial value is compressed into three hundred and fifty millions. This striking fact makes it the obvious duty of the government, as early as may be consistent with the principles of sound political economy, to take such measures as will enable the holder of its notes and those of the national banks to convert them, without loss, into specie or its equivalent. A reduction of our paper circulating medium need not necessarily follow. This, however, would depend upon the law of demand and supply, though it should be borne in mind that by making legal-tender and bank notes convertible into coin or its equivalent, their present specie value in the hands of their holders would be enhanced one hundred per cent.

Legislation for the accomplishment of a result so desirable is demanded by the highest public considerations. The Constitution contemplates that the circulating medium of the country shall be uniform in quality and value. At the time of the formation of that instrument the country had just emerged from the war of the Revolution, and was suffering from the effects of a redundant and worthless paper currency. The sages of that period were anxious to protect their posterity from the evils which they themselves had experienced. Hence, in providing a circulating medium, they conferred upon Congress the power to coin money and regulate the value thereof, at the same time prohibiting the States from making anything but gold and silver a tender in payment of debts.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all dues to the government, excluding imposts, and by all its creditors, excepting

in payment of interest upon its bonds and the securities themselves; second, legal-tender notes, issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all government dues, excepting imposts; and, third, gold and silver coin. By the operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of government creditors, who, holding its bonds, semi-annually receive their interest in coin from the national treasury. There is no reason which will be accepted as satisfactory by the people, why those who defend us on the land and protect us on the sea—the pensioner upon the gratitude of the nation, bearing the scars and wounds received while in its service; the public servants in the various departments of the government; the farmer who supplies the soldiers of the army and the sailors of the navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war—should, in payment of their just and hard-earned dues, receive depreciated paper, while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the government should be paid in a currency possessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep-rooted and wide-spread, and imperil the national credit.

The feasibility of making our currency correspond with the constitutional standard may be seen by reference to a few facts derived from our commercial statistics.

The aggregate product of precious metals in the United States from 1849 to 1867 amounted to $1,174,000,000, while, for the same period, the net exports of specie were $741,000,000. This shows an excess of product over net exports of $433,000,000. There are in the treasury $103,407,985 in coin; in circulation in the States on the Pacific coast about $40,000,000, and a few millions in the national and other banks—in all less than $160,000,000. Taking into consideration the specie in the country prior to 1849, and that produced since 1867, and we have more than $300,000,000 not accounted for by exportation or by the returns of the treasury, and therefore most probably remaining in the country.

These are important facts, and show how completely the inferior currency will supersede the better, forcing it from circulation among the masses, and causing it to be exported as a mere article of trade, to add to the money capital of foreign lands. They show the necessity of retiring our paper money, that the return of gold and silver to the avenues of trade may be invited, and a demand created which will cause the retention at home of at least so much of the productions of our rich and inexhaustible gold bearing fields as may be sufficient for purposes of circulation. It is unreasonable to expect a return to a sound currency so long as the government and banks, by continuing to issue irredeemable notes, fill the channels of circulation with depreciated paper. Notwithstanding a coinage by our mints, since 1849, of eight hundred and seventy-four millions of dollars, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. If depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indespensable to the comfort of the

people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metals be exported in bullion. The time has come, however, when the government and the national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments. Let specie payments once be earnestly inaugurated by the government and banks, and the value of the paper circulation would directly approximate a specie standard.

Specie payments having been resumed by the government and banks, all notes or bills of paper issued by either, of a less denomination than twenty dollars, should by law be excluded from circulation, so that the people may have the benefit and convenience of a gold and silver currency which in all their business transactions will be uniform in value at home and abroad.

"Every man of property or industry, every man who desires to preserve what he honestly possesses or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium—such a medium as shall be real and substantial, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but to be made stable and secure. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness; it wars against industry, frugality, and economy, and it fosters the evil spirit of extravagance and speculation." It has been asserted by one of our profound and most gifted statesmen, that "of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's fields by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation—these bear lightly on the happiness of the mass of the community compared with a fraudulent currency, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed of a degraded paper currency authorized by law or in any way countenanced by government." It is one of the most successful devices, in times of peace or war, of expansions or revulsions, to accomplish the transfer of all the precious metals from the great mass of the people into the hands of the few, where they are hoarded in secret places or deposited under bolts and bars, while the people are left to endure all the inconvenience, sacrifice, and demoralization resulting from the use of depreciated and worthless paper.

The Secretary of the Interior, in his report, gives valuable information in reference to the interests confided to the supervision of his department, and reviews the operations of the Land Office, Pension Office, Patent Office, and the Indian Bureau.

During the fiscal year ending June 30, 1868, six million six hundred and fifty-five thousand seven hundred acres of public land were disposed of. The entire cash receipts of the General Land Office for the same period were $1,632,745, being greater by $284,883 than the amount realized from the same sources during the previous year. The entries under the homestead law cover two million three hundred and twenty-eight thousand nine hundred and twenty-three acres, nearly one-fourth of which was taken under the act of June 21, 1866, which applies only to the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

On the 30th of June, 1868, one hundred and sixty-nine thousand six

hundred and forty-three names were borne on the pension-rolls, and during the year ending on that day the total amount paid for pensions, including the expenses of disbursement, was $24,010,982, being $5,391,025 greater than that expended for like purposes during the preceding year.

During the year ending the 30th of September last, the expenses of the Patent Office exceeded the receipts by one hundred and seventy-one dollars; and, including reissues and designs, fourteen thousand one hundred and fifty-three patents were issued.

Treaties with various Indian tribes have been concluded, and will be submitted to the Senate for its constitutional action. I cordially sanction the stipulations which provide for reserving lands for the various tribes, where they may be encouraged to abandon their nomadic habits and engage in agricultural and industrial pursuits. This policy, inaugurated many years since, has met with signal success whenever it has been pursued in good faith and with becoming liberality by the United States. The necessity for extending it as far as practicable in our relations with the aboriginal population is greater now than at any preceding period. Whilst we furnish subsistence and instruction to the Indians, and guarantee the undisturbed enjoyment of their treaty-rights, we should habitually insist upon the faithful observance of their agreement to remain within their respective reservations. This is the only mode by which collisions with other tribes and with the whites can be avoided, and the safety of our frontier settlements secured.

The companies constructing the railway from Omaha to Sacramento have been most energetically engaged in prosecuting the work, and it is believed that the line will be completed before the expiration of the next fiscal year. The six per cent. bonds issued to these companies amounted, on the 5th instant, to $44,337,000, and additional work had been performed to the extent of $3,200,000.

The Secretary of the Interior in August last invited my attention to the report of a government director of the Union Pacific Railroad Company, who had been specially instructed to examine the location, construction, and equipment of their road. I submitted for the opinion of the Attorney General certain questions in regard to the authority of the Executive which arose upon this report, and those which had from time to time been presented by the commissioners appointed to inspect each successive section of the work. After carefully considering the law of the case, he affirmed the right of the Executive to order, if necessary, a thorough revision of the entire road. Commissioners were thereupon appointed to examine this and other lines, and have recently submitted a statement of their investigations, of which the report of the Secretary of the Interior furnishes specific information.

The report of the Secretary of War contains information of interest and importance respecting the several bureaus of the War Department and the operations of the army. The strength of our military force, on the 30th of September last, was forty-eight thousand men, and it is computed that, by the first of January next, this number will be decreased to forty-three thousand. It is the opinion of the Secretary of War that within the next year a considerable diminution of the infantry force may be made without detriment to the interests of the country; and in view of the great expense attending the military peace establishment, and the absolute necessity of retrenchment wherever it can be applied, it is hoped that Congress will sanction the reduction which his reports recommends. While in 1860 sixteen thousand three hundred men cost the nation $16,472,000, the sum of $65,682,000 is estimated as necessary for the support of the army during the fiscal year ending June 30, 1870. The

estimates of the War Department for the last two fiscal years were, for 1867, $33,814,461, and for 1868, $25,205,669. The actual expenditures during the same periods were, respectively, $95,224,415 and $123,246,648. The estimate submitted in December last for the fiscal year ending June 30, 1869, was $77,124,707; the expenditures for the first quarter, ending the 30th of September last, were $27,219,117, and the Secretary of the Treasury gives $66,000,000 as the amount which will probably be required during the remaining three quarters, if there should be no reduction of the army—making its aggregate cost for the year considerably in excess of ninety-three millions. The difference between the estimates and expenditures for the three fiscal years which have been named is thus shown to be $175,545,343 for this single branch of the public service.

The report of the Secretary of the Navy exhibits the operations of that department and of the navy during the year. A considerable reduction of the force has been effected. There are forty-two vessels, carrying four hundred and eleven guns, in the six squadrons which are established in different parts of the world. Three of these vessels are returning to the United States and four are used as storeships, leaving the actual cruising force thirty-five vessels, carrying three hundred and fifty-six guns. The total number of vessels in the navy is two hundred and six, mounting seventeen hundred and forty-three guns. Eighty-one vessels of every description are in use, armed with six hundred and ninety-six guns. The number of enlisted men in the service, including apprentices, has been reduced to eight thousand five hundred. An increase of navy-yard facilities is recommended as a measure which will, in the event of war, be promotive of economy and security. A more thorough and systematic survey of the North Pacific ocean is advised in view of our recent acquisitions, our expanding commerce, and the increasing intercourse between the Pacific States and Asia. The naval pension fund, which consists of a moiety of the avails of prizes captured during the war, amounts to $14,000,000. Exception is taken to the act of 23d July last, which reduces the interest on the fund loaned to the government by the Secretary, as trustee, to three per cent. instead of six per cent., which was originally stipulated when the investment was made. An amendment of the pension laws is suggested to remedy omissions and defects in existing enactments. The expenditures of the department during the last fiscal year were $20,120,394, and the estimates for the coming year amount to $20,993,414.

The Postmaster General's report furnishes a full and clear exhibit of the operations and condition of the postal service. The ordinary postal revenue for the fiscal year ending June 30, 1868, was $16,292,600, and the total expenditures, embracing all the service for which special appropriations have been made by Congress, amounted to $22,730,592, showing an excess of expenditures of $6,437,991. Deducting from the expenditures the sum of $1,896,525, the amount of appropriations for ocean steamship and other special service, the excess of expenditures was $4,541,466. By using an unexpended balance in the treasury of $3,800,000, the actual sum for which a special appropriation is required to meet the deficiency is $741,466. The causes which produced this large excess of expenditure over revenue were the restoration of service in the late insurgent States, and the putting into operation of new service established by acts of Congress, which amounted, within the last two years and a half, to about 48,700 miles—equal to more than one-third of the whole amount of the service at the close of the war. New postal conventions with Great Britain, North Germany, Belgium, the Netherlands, Switzerland, and Italy, respectively, have been carried into effect.

Under their provisions important improvements have resulted in reduced rates of international postage, and enlarged mail facilities with European countries. The cost of the United States transatlantic ocean mail service since January 1, 1868, has been largely lessened under the operation of these new conventions, a reduction of over one-half having been effected under the new arrangements for ocean mail steamship service which went into effect on that date. The attention of Congress is invited to the practical suggestions and recommendations made in his report by the Postmaster General.

No important question has occurred during the last year in our accustomed cordial and friendly intercourse with Costa Rica, Guatemala, Honduras, San Salvador, France, Austria, Belgium, Switzerland, Portugal, the Netherlands, Denmark, Sweden and Norway, Rome, Greece, Turkey, Persia, Egypt, Liberia, Morocco, Tripoli, Tunis, Muscat, Siam, Borneo, and Madagascar.

Cordial relations have also been maintained with the Argentine and the Oriental republics. The expressed wish of Congress that our national good offices might be tendered to those republics, and also to Brazil and Paraguay, for bringing to an end the calamitous war which has so long been raging in the valley of the La Plata, has been assiduously complied with, and kindly acknowledged by all the belligerents. That important negotiation, however, has thus far been without result.

Charles A. Washburn, late United States minister to Paraguay, having resigned, and being desirous to return to the United States, the rear-admiral commanding the South Atlantic squadron was early directed to send a ship of war to Asuncion, the capital of Paraguay, to receive Mr. Washburn and his family, and remove them from a situation which was represented to be endangered by faction and foreign war. The Brazilian commander of the allied invading forces refused permission to the Wasp to pass through the blockading forces, and that vessel returned to its accustomed anchorage. Remonstrance having been made against this refusal, it was promptly overruled, and the Wasp therefore resumed her errand, received Mr. Washburn and his family, and conveyed them to a safe and convenient seaport. In the mean time an excited controversy had arisen between the President of Paraguay and the late United States minister, which it is understood grew out of his proceedings in giving asylum in the United States legation to alleged enemies of that republic. The question of the right to give asylum is one always difficult, and often productive of great embarrassment. In States well organized and established, foreign powers refuse either to concede or exercise that right, except as to persons actually belonging to the diplomatic service. On the other hand, all such powers insist upon exercising the right of asylum in States where the law of nations is not fully acknowledged, respected, and obeyed.

The President of Paraguay is understood to have opposed to Mr. Washburn's proceedings the injurious and very improbable charge of personal complicity in insurrection and treason. The correspondence, however, has not yet reached the United States.

Mr. Washburn, in connection with his controversy, represents that two United States citizens attached to the legation were arbitrarily seized at his side, when leaving the capital of Paraguay, committed to prison, and there subjected to torture for the purpose of procuring confessions of their own criminality, and testimony to support the President's allegations against the United States minister. Mr. McMahon, the newly appointed minister to Paraguay, having reached the La Plata, has been instructed to proceed, without delay, to Asuncion, there

to investigate the whole subject. The rear-admiral commanding the United States South Atlantic squadron has been directed to attend the new minister with a proper naval force to sustain such just demands as the occasion may require, and to vindicate the rights of the United States citizens referred to, and of any others who may be exposed to danger in the theater of war. With these exceptions, friendly relations have been maintained between the United States and Brazil and Paraguay.

Our relations during the past year with Bolivia, Ecuador, Peru, and Chili have become especially friendly and cordial. Spain and the republics of Peru, Bolivia, and Ecuador have expressed their willingness to accept the mediation of the United States for terminating the war upon the South Pacific coast. Chili has not finally declared upon the question. In the mean time the conflict has practically exhausted itself, since no belligerent or hostile movement has been made by either party during the last two years, and there are no indications of a present purpose to resume hostilities on either side. Great Britain and France have cordially seconded our proposition of mediation, and I do not forego the hope that it may soon be accepted by all the belligerents, and lead to a secure establishment of peace and friendly relations between the Spanish American republics of the Pacific and Spain—a result which would be attended with common benefits to the belligerents and much advantage to all commercial nations. I communicate, for the consideration of Congress, a correspondence which shows that the Bolivian republic has established the extremely liberal principle of receiving into its citizenship any citizen of the United States, or of any other of the American republics, upon the simple condition of voluntary registry.

The correspondence herewith submitted will be found painfully replete with accounts of the ruin and wretchedness produced by recent earthquakes of unparalleled severity in the republics of Peru, Ecuador, and Bolivia. The diplomatic agents and naval officers of the United States who were present in those countries at the time of those disasters furnished all the relief in their power to the sufferers, and were promptly rewarded with grateful and touching acknowledgments by the Congress of Peru. An appeal to the charity of our fellow-citizens has been answered by much liberality. In this connection I submit an appeal which has been made by the Swiss republic, whose government and institutions are kindred to our own, in behalf of its inhabitants, who are suffering extreme destitution produced by recent devastating inundations.

Our relations with Mexico during the year have been marked by an increasing growth of mutual confidence. The Mexican government has not yet acted upon the three treaties celebrated here last summer for establishing the rights of naturalized citizens upon a liberal and just basis, for regulating consular powers, and for the adjustment of mutual claims.

All commercial nations, as well as all friends of republican institutions, have occasion to regret the frequent local disturbances which occur in some of the constituent States of Colombia. Nothing has occurred, however, to affect the harmony and cordial friendship which have for several years existed between that youthful and vigorous republic and our own.

Negotiations are pending with a view to the survey and construction of a ship canal across the Isthmus of Darien, under the auspices of the United States. I hope to be able to submit the results of that negotiation to the Senate during its present session.

The very liberal treaty which was entered into last year by the United States and Nicaragua has been ratified by the latter republic.

Costa Rica, with the earnestness of a sincerely friendly neighbor, solicits a reciprocity of trade, which I commend to the consideration of Congress.

The convention created by treaty between the United States and Venezuela in July, 1865, for the mutual adjustment of claims, has been held, and its decisions have been received at the Department of State. The heretofore recognized government of the United States of Venezuela has been subverted. A provisional government having been instituted under circumstances which promise durability, it has been formally recognized.

I have been reluctantly obliged to ask explanation and satisfaction for national injuries committed by the President of Hayti. The political and social condition of the republics of Hayti and St. Domingo is very unsatisfactory and painful. The abolition of slavery, which has been carried into effect throughout the island of St. Domingo and the entire West Indies, except the Spanish islands of Cuba and Porto Rico, has been followed by a profound popular conviction of the rightfulness of republican institutions, and an intense desire to secure them. The attempt, however, to establish republics there encounters many obstacles, most of which may be supposed to result from long-indulged habits of colonial supineness and dependence upon European monarchical powers. While the United States have, on all occasions, professed a decided unwillingness that any part of this continent or of its adjacent islands shall be made a theater for a new establishment of monarchical power, too little has been done by us, on the other hand, to attach the communities by which we are surrounded to our own country, or to lend even a moral support to the efforts they are so resolutely and so constantly making to secure republican institutions for themselves. It is indeed a question of grave consideration whether our recent and present example is not calculated to check the growth and expansion of free principles, and make those communities distrust, if not dread, a government which at will consigns to military domination States that are integral parts of our federal Union, and, while ready to resist any attempts by other nations to extend to this hemisphere the monarchical institutions of Europe, assumes to establish over a large portion of its people a rule more absolute, harsh, and tyrannical than any known to civilized powers.

The acquisition of Alaska was made with the view of extending national jurisdiction and republican principles in the American hemisphere. Believing that a further step could be taken in the same direction, I last year entered into a treaty with the King of Denmark for the purchase of the islands of St. Thomas and St. John, on the best terms then attainable, and with the express consent of the people of those islands. This treaty still remains under consideration in the Senate. A new convention has been entered into with Denmark, enlarging the time fixed for final ratification of the original treaty.

Comprehensive national policy would seem to sanction the acquisition and incorporation into our federal Union of the several adjacent continental and insular communities as speedily as it can be done peacefully, lawfully, and without any violation of national justice, faith, or honor. Foreign possession or control of those communities has hitherto hindered the growth and impaired the influence of the United States. Chronic revolution and anarchy there would be equally injurious. Each one of them, when firmly established as an independent republic, or when incorporated into the United States, would be a new source of

strength and power. Conforming my administration to these principles, I have on no occasion lent support or toleration to unlawful expeditions set on foot upon the plea of republican propagandism or of national extension or aggrandizement. The necessity, however, of repressing such unlawful movements clearly indicates the duty which rests upon us of adapting our legislative action to the new circumstances of a decline of European monarchical power and influence, and the increase of American republican ideas, interests, and sympathies.

It cannot be long before it will become necessary for this government to lend some effective aid to the solution of the political and social problems which are continually kept before the world by the two republics of the island of St. Domingo, and which are now disclosing themselves more distinctly than heretofore in the island of Cuba. The subject is commended to your consideration with all the more earnestness because I am satisfied that the time has arrived when even so direct a proceeding as a proposition for an annexation of the two republics of the island of St. Domingo would not only receive the consent of the people interested, but would also give satisfaction to all other foreign nations.

I am aware that upon the question of further extending our possessions it is apprehended by some that our political system cannot successfully be applied to an area more extended than our continent; but the conviction is rapidly gaining ground in the American mind that, with the increased facilities for intercommunication between all portions of the earth, the principles of free government, as embraced in our Constitution, if faithfully maintained and carried out, would prove of sufficient strength and breadth to comprehend within their sphere and influence the civilized nations of the world.

The attention of the Senate and of Congress is again respectfully invited to the treaty for the establishment of commercial reciprocity with the Hawaiian kingdom, entered into last year, and already ratified by that government. The attitude of the United States towards these islands is not very different from that in which they stand towards the West Indies. It is known and felt by the Hawaiian government and people that their government and institutions are feeble and precarious; that the United States, being so near a neighbor, would be unwilling to see the islands pass under foreign control. Their prosperity is continually disturbed by expectations and alarms of unfriendly political proceedings, as well from the United States as from other foreign powers. A reciprocity treaty, while it could not materially diminish the revenues of the United States, would be a guarantee of the good will and forbearance of all nations until the people of the islands shall of themselves, at no distant day, voluntarily apply for admission into the Union.

The Emperor of Russia has acceded to the treaty negotiated here in January last for the security of trade-marks in the interest of manufacturers and commerce. I have invited his attention to the importance of establishing now, while it seems easy and practicable, a fair and equal regulation of the vast fisheries belonging to the two nations in the waters of the North Pacific ocean.

The two treaties between the United States and Italy for the regulation of consular powers and the extradition of criminals, negotiated and ratified here during the last session of Congress, have been accepted and confirmed by the Italian government. A liberal consular convention which has been negotiated with Belgium will be submitted to the Senate. The very important treaties which were negotiated between the United States and North Germany and Bavaria, for the regulation

of the rights of naturalized citizens, have been duly ratified and exchanged, and similar treaties have been entered into with the kingdoms of Belgium and Wurtemberg, and with the grand duchies of Baden and Hesse-Darmstadt. I hope soon to be able to submit equally satisfactory conventions of the same character now in the course of negotiations with the respective governments of Spain, Italy, and the Ottoman empire.

Examination of claims against the United States by the Hudson's Bay Company and the Puget's Sound Agricultural Company on account of certain possessory rights in the State of Oregon and Territory of Washington, alleged by those companies in virtue of provisions of the treaty between the United States and Great Britain of June 15, 1846, has been diligently prosecuted, under the direction of the joint international commission, to which they were submitted for adjudication by treaty between the two governments of July 1, 1863, and will, it is expected, be concludedat an early day.

No practical regulation concerning colonial trade and the fisheries can be accomplished by treaty between the United States and Great Britain until Congress shall have expressed their judgment concerning the principles involved. · Three other questions, however, between the United States and Great Britain remain open for adjustment. These are the mutual rights of naturalized citizens, the boundary question involving the title to the island of San Juan on the Pacific coast, and mutual claims arising since the year 1853 of the citizens and subjects of the two countries for injuries and depredations committed under the authority of their respective governments. Negotiations upon these subjects are pending, and I am not without hope of being able to lay before the Senate, for its consideration during the present session, protocols calculated to bring to an end these justly-exciting and long-existing controversies.

We are not advised of the action of the Chinese government upon the liberal and auspicious treaty which was recently celebrated with its plenipotentiaries at this capital.

Japan remains a theater of civil war, marked by religious incidents and political severities peculiar to that long-isolated empire. The Executive has hitherto maintained strict neutrality among the belligerents, and acknowledges with pleasure that it has been frankly and fully sustained in that course by the enlightened concurrence and co-operation of the other treaty powers, namely, Great Britain, France, the Netherlands, North Germany, and Italy.

Spain having recently undergone a revolution marked by extraordinary unanimity and preservation of order, the provisional government established at Madrid has been recognized, and the friendly intercourse which has so long happily existed between the two countries remains unchanged.

I renew the recommendation contained in my communication to Congress dated the 18th July last—a copy of which accompanies this message—that the judgment of the people should be taken on the propriety of so amending the federal Constitution that it shall provide—

1st. For an election of President and Vice-President by a direct vote of the people, instead of through the agency of electors, and making them ineligible for re-election to a second term.

2d. For a distinct designation of the person who shall discharge the duties of President, in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice-President.

3d. For the election of senators of the United States directly by the people of the several States, instead of by the legislatures; and

4th. For the limitation to a period of years of the terms of federal judges.

Profoundly impressed with the propriety of making these important modifications in the Constitution, I respectfully submit them for the early and mature consideration of Congress. We should as far as possible remove all pretext for violations of the organic law, by remedying such imperfections as time and experience may develop, ever remembering that "the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

In the performance of a duty imposed upon me by the Constitution, I have thus communicated to Congress information of the state of the Union, and recommended for their consideration such measures as have seemed to me necessary and expedient. If carried into effect, they will hasten the accomplishment of the great and beneficent purposes for which the Constitution was ordained, and which it comprehensively states were "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." In Congress are vested all legislative powers, and upon them devolves the responsibility as well for framing unwise and excessive laws, as for neglecting to devise and adopt measures absolutely demanded by the wants of the country. Let us earnestly hope that before the expiration of our respective terms of service, now rapidly drawing to a close, an all-wise Providence will so guide our counsels as to strengthen and preserve the federal Union, inspire reverence for the Constitution, restore prosperity and happiness to our whole people, and promote "on earth peace, good will toward men."

ANDREW JOHNSON.

WASHINGTON, *December* 9, 1868.

# CORRESPONDENCE.

# GREAT BRITAIN.

*Mr. Adams to Mr. Seward.*

No. 1485.] LEGATION OF THE UNITED STATES,
*London, November* 29, 1867.

SIR: I have to acknowledge the reception of your dispatch No. 2090, of the 15th of November, in relation to the case of Captain John Warren, and likewise of a telegram by the cable on the 28th, instructing me to forward immediately the statutes of treason-felony under which he was tried. I infer from this message that at the moment you must have been in possession of my dispatch No. 1481, of the 16th of November, explaining the nature of that statute. I have caused to be procured copies of the different statutes relative to the late modifications made of the old law of treason and their application to Ireland, together with a specification of the trials already had under them, which I have the honor to transmit herewith.

This seems to me the quickest and best answer I can make to the message, without a necessity of incurring the expense of the telegraph.

The execution of the three men condemned for the rescue of prisoners and killing of a policeman took place in due course of law, on Saturday last, without any extraordinary incident. It was attended with far lèss excitement than had been apprehended. Many missives threatening assassination had been sent to different public officers, of which I also happened to be a recipient of one, but nothing serious has thus far come of it.

I now have the honor to transmit, at the desire of the writer, a letter addressed to me by Colonel Nagle, which seems to demand my immediate interference in his behalf, on account of the delay caused by the postponement of his trial. Since this was written, an application in due form has been made by his counsel to the court at Dublin, and has been refused. It has hardly seemed to me possible to dispute the right of this government to judge of the time when it is convenient to bring a prisoner to trial, in the face of the fact universally known here, and much commented on, of the long detention in confinement of Mr. Jefferson Davis.

Mr. West, on the 22d instant, reported to me that, so far as he was informed, there were at that date only ten persons claiming to be citizens of the United States remaining in prison. One of the ten, Lawrence Doyle, has been since offered his release on the ground of his failing health. Of the remainder, he is notified that six, including Colonel Nagle, are to be tried at the spring assizes of the county of Sligo. The three others are also to be tried at the next spring assizes of the respective counties in which they were arrested.

I am glad to learn that the ground of just complaint, on the score of long imprisonment without assignable cause, will be, before long, removed.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

## ANNO UNDECINO.—VICTORIÆ REGINÆ.

CAP. XII.—AN ACT for the better security of the Crown and government of the United Kingdom.—[22d April, 1848.]

Whereas by an act of the Parliament of Great Britain, passed in the thirty-sixth year of the reign of his late Majesty King George the Third, intituled An act for the safety and preservation of his Majesty's person and government against treasonable and seditious practices and attempts, it was, among other things, enacted that, if any person or persons whatsoever, after the day of the passing of that act, during the natural life of his said Majesty, and until the end of the next session of Parliament after the demise of the Crown, should, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of his said Majesty, his heirs or successors, or to deprive or depose him or them from the style, honor, or kingly name of the imperial Crown of this realm or of any other of his said Majesty's dominions or countries, or to levy war against his said Majesty, his heirs and successors, within this realm, in order, by force or restraint, to compel him or them to change his or their measures or counsels, or in order to put any force or constraint upon or to intimidate or overawe both houses or either house of Parliament, or to move or stir any foreigner or stranger with force to invade this realm, or any other of his said Majesty's dominions or countries under the obeisance of his said Majesty, his heirs and successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, should express, utter, or declare, by publishing any printing or writing, or by any overt act or deed, being legally convicted thereof, upon the oath of two lawful and credible witnesses, upon trial, or otherwise convicted or attainted by due course of law, then every such person or persons, so as aforesaid offending, should be deemed, declared, and adjudged to be a traitor and traitors, and should suffer pains of death, and also lose and forfeit as in cases of high treason. And whereas by an act of Parliament passed in the fifty-seventh year of the same reign, intituled An act to make perpetual certain parts of an act of the thirty-sixth year of his present Majesty, for the safety and preservation of his Majesty's person and government against treasonable and seditious practices and attempts, and for the safety and preservation of the person of his royal Highness the prince regent against treasonable practices and attempts, all the hereinbefore-recited provisions of the said act of the thirty-sixth year of his said Majesty's reign which relate to the heirs and successors of his said Majesty, the sovereigns of these realms, were made perpetual; and whereas doubts were entertained whether the provisions so made perpetual were by the last-recited act extended to Ireland; and whereas it is expedient to repeal all such of the provisions made perpetual by the last-recited act as do not relate to offenses against the person of the sovereign, and to enact other provisions instead thereof, applicable to all parts of the United Kingdom, and to extend to Ireland such of the provisions of the said acts as are not hereby repealed:

*Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and common in this present Parliament assembled, and by the authority of the same,* That from and after the passing of this act the provisions of the said act of the thirty-sixth year of the reign of King George the Third, made perpetual by the said act for the fifty-seventh year of the same reign, and all the provisions of the last-mentioned act in relation thereto, save such of the same respectively as relate to the compassing, imagining, inventing, devising, or intending death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of the heirs and successors of his said Majesty King George the Third, and the expressing, uttering, or declaring of such compassings, imaginations, inventions, devices, or intentions, or any of them, shall be and the same are hereby repealed.

II. *And be it declared and enacted,* That such of the said recited provisions made perpetual by the said act of the fifty-seventh year of the reign of King George the Third as are not hereby repealed shall extend to and be in force in that part of the United Kingdom called Ireland.

III. *And be it enacted,* That if any person whatsoever, after the passing of this act, shall, within the United Kingdom or without, compass, imagine, invent, devise, or intend to deprive or depose our most gracious lady the Queen, her heirs or successors, from the style, honor, or royal name of the imperial crown of the United Kingdom, or of any other of her Majesty's dominions and countries, or to levy war against her Majesty, her heirs or successors, within any part of the United Kingdom, in order by force or constraint to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both houses or either house of Parliament, or to move or stir any foreigner or stranger with force to invade the United Kingdom, or any other her Majesty's dominions or

countries under the obeisance of her Majesty, her heirs or successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter or declare, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, every person so offending shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of his or her natural life, or for any term not less than seven years, or to be imprisoned for any term not exceeding two years, with or without hard labor, as the court shall direct.

IV. *Provided always, and be it enacted,* That no person shall be prosecuted for any felony by virtue of this act in respect of such compassings, imaginations, inventions, devices, or intentions as aforesaid, in so far as the same are expressed, uttered, or declared by open and advised speaking, only unless information of such compassings, imaginations, devices, and intentions, and of the words by which the same were expressed, uttered, or declared, shall be given upon oath to one or more justice or justices of the peace, or to any sheriff or steward, or sheriff substitute or steward substitute in Scotland, within six days after such words shall have been spoken, and unless a warrant for the apprehension of the person by whom such words shall have been spoken shall be issued within ten days next after such information shall have been given as aforesaid, and unless such warrant shall be issued within two years next after the passing of this act; and that no person shall be convicted of any such conspiracy, imaginations, inventions, devices, or intentions as aforesaid, in so far as the same are expressed, uttered, or declared by open or advised speaking as aforesaid, except upon his own confession in open court, or unless the words so spoken shall be proved by two credible witnesses.

V. *And be it enacted,* That it shall be lawful, in any indictment for any felony under this act, to charge against the offender any number of matters, acts, or deeds by which such compassings, imaginations, inventions, devices, or intentions as aforesaid, or any of them, shall have been expressed, uttered, or declared.

VI. *Provided always, and be it enacted,* That nothing herein contained shall lessen the force of, or in any manner affect, anything enacted by the statute passed in the twenty-fifth year of King Edward the Third, *a declaration which offenses shall be adjudged treason.*

VII. *Provided also, and be it enacted,* That if the facts or matters alleged in an indictment for any felony under this act shall amount in law to treason, such indictment shall not, by reason thereof, be deemed void, erroneous, or defective; and if the facts or matters proved on the trial of any person indicted for any felony under this act shall amount in law to treason, such person shall not by reason thereof be entitled to be acquitted of such felony; but no person tried for such felony shall be afterwards prosecuted for treason upon the same facts.

VIII. *And be it enacted,* That, in the case of every felony punishable under this act, every principal in the second degree and every accessory before the fact shall be punishable in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any such felony shall on conviction be liable to be imprisoned, with or without hard labor, for any term not exceeding two years.

IX. *Provided always, and be it enacted,* That no person committed for trial in Scotland for any offense under this act shall be entitled to insist on liberation on bail, unless with consent of the public prosecutor, or by warrant of the high court or circuit court of judiciary, in such and the like manner and to the same effect as is provided by an act passed in the session of Parliament, holden in the fifth and sixth years of the reign of his Majesty King George the Fourth, intituled *An act to provide that persons accused of forgery in Scotland shall not be entitled to bail, unless in certain cases;* but the trial of any person, so committed, and whether liberated on bail or not, shall in all cases be proceeded with and brought to a conclusion under the like certification and conditions as if intimation to fix a diet for trial had been made to the public prosecutor in terms of an act passed in the Scottish Parliament in the year one thousand seven hundred and one, intituled *An act for preventing wrongous imprisonment, and against undue delays in trials.*

X. *And be it enacted,* That it shall not be lawful for any court, before which any person shall be prosecuted or tried for any felony under this act, to order payment to the prosecutor or the witnesses of any costs which shall be incurred in preferring or prosecuting any such indictment.

XI. *And be it enacted,* That this act may be amended or repealed by any act to be passed during the present session of Parliament.

ANNO VICESIMO QUARTO ET VICESIMO QUINTO.—VICTORIÆ REGINÆ.

CAP. XCIV.—AN ACT to consolidate and amend the statute law of England and Ireland relating to accessories to and abettors of indictable offenses.—[August 6, 1861.]

[Extract.]

Whereas it is expedient to consolidate and amend the statute law of England and Ireland relating to accessories to and abettors of indictable offenses:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present Parliament assembled, and by the authority of the same, as follows:

As to accessories before the fact—

I. Whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted, tried, convicted, and punished in all respects as if he were a principal felon.

II. Whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, shall be guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished.

As to accessories after the fact—

III. Whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished.

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*Mr. Nagle to Mr. Adams.*

KILMAINHAM JAIL,
*Dublin, Ireland, November* 22, 1867.

SIR: I respectfully call your attention to the following statement, and request that it may be forwarded to the Hon. William H. Seward, Secretary of State:

After five months' imprisonment without any charge or evidence of crime being brought against me, notwithstanding my continued protest and repeated demands for liberty, I was on the 25th of October indicted by the grand jury of the county of Dublin for treason-felony. The commission of oyer and terminer, before whom the indictment was brought, adjourned on the 16th of November, after a session of three weeks, without bringing me to trial. The attorney general had promised to bring up my case in the first week of the commission, but failed to do so. On the last day of its session I asked through my counsel for an immediate trial, or that I might be released on bail. This was denied me, and I stand committed for trial at the Sligo assizes, which will be held in March next.

It appears the court acknowledges my claim as an American citizen, of which fact the Crown officials were informed before my indictment, although the same court denied the rights of other American citizens, and tried and condemned them as British subjects upon the same indictment which was found against me, and under the very law of England which, as announced by the lord chief baron, holds them perpetually bound to their natural allegiance, and further declares that "all children born out of the realm, whose fathers are natural-born subjects of England, shall themselves be natural-born subjects to all intents, constructions, and purposes whatever." If one portion of the law can be enforced, as it has been against Warren and Costello, denying the rights of naturalized citizens, then we may expect, as a legal and logical consequence, that the balance of it, claiming the children of those citizens as British subjects, will be enforced in my case. I call attention to this now, that our government may not be surprised at the position likely to be assumed by the Crown, should I be brought to trial.

The reason assigned for the postponement of my trial to Sligo is, that my status as

an American citizen being recognized, I cannot be held accountable as a co-conspirator for the overt acts committed on the 5th March last, for which Warren and Costello were tried and convicted. It would appear, therefore, that I am to be held and tried on the statement of the witness Gallagher, who swears that I administered an oath to him on board of a vessel in Sligo bay, with a pistol at his head, if he refused to take the oath.

I suppose Mr. West will forward an official report of the trial, as he had a special counsel watching the case, aside from those engaged for the defense; so I will not enter upon the details of it. As this story of Gallagher is the only foundation for a prosecution, the only pretense of an overt act, and the plausible excuse for keeping me a prisoner, I deem it necessary to call particular attention to the character of this man's testimony, and the circumstances connected with it. It appears Gallagher was first examined in Sligo in the latter part of May, when he swore that the vessel he boarded in the bay was to the best of his knowledge a Spaniard, and bound to Glasgow. He told a plain, simple story, and said that was all he knew about her. On the trial the coast guard swears he told him the same.

Gallagher was brought to Kilmainham jail early in July, and remained in prison about one month, seeing me every day, exercising in the same yard, becoming well acquainted with my name and appearance, but never recognized me, or made any pretense of having ever before seen me. He left the jail in August. On the 12th of October I was brought before a magistrate, and Gallagher was produced and told the strange story he swore to on that day. During the trials of Warren and Costello he was placed upon the witness-stand and repeated his story, with many variations and contradictions, sticking, however, to the main point. I will not here attempt to analyze his evidence, trusting that the counsel employed for that purpose by Mr. West will not fail to point out the contradictions, inconsistencies, and improbabilities of his conflicting statements—his probable and undoubted perjury. Colonel Warren solemnly declared, before sentence was pronounced upon him, that he never saw the man until he came to Kilmainham jail. I declare, before God and the world, upon my honor as a man and a soldier, that his whole statement about me is an infamous lie. Yet, upon the unsupported and uncorroborated story of this miserable perjurer, this government has the effrontery to hold me subject for an indefinite period to the torture of this lingering death, to which I have been already so long subjected upon mere suspicion. I am now under the treatment of the medical director, who can certify to the debilitated condition to which I am reduced, after being shut up in this bastile all summer. My health is now seriously affected; a continuance of this confinement will cost me my life. Is this the penalty I must suffer at the hands of a merciless, tyrannical government for having dared to express in my native land my abhorrence of a rule which seeks to expatriate a race, and would exterminate every vestige of a nation? I again appeal to my country and her representatives for justice, for freedom—aye, for life. I again repeat and declare that I have done no act, offended no law within British territory, which should subject me to the wrong and injury I have already suffered, much less to a continuance of it. The Crown officials have attempted to show cause for my arrest and imprisonment. They have made up a case, and a Dublin grand jury have indicted me for acts committed on the 5th of March, (proposing to deal with me as a British subject,) but there they stop. After five months of search and labor, they produce three perjured informers to swear away my liberty. How they were procured may be inferred from the persistent efforts made to procure others to do likewise, which will be made public, notwithstanding the attempt made to suppress the facts. The attorney general finds it is not safe to proceed, and at the last moment sets aside my trial for four months, trusting that in the intervening time, by proper manipulation, some wretch may be found willing to barter soul and honor and tell a tale to support Gallagher.

To sum up the whole matter in a few words, I, a citizen of the United States, a stranger in Ireland, having committed no offense, am arrested in mid-day upon a public highway by the first policeman I meet; put in irons; placed in close and solitary confinement; subject to all the humiliations and privations of the worst class of criminals; and thus deprived of my liberty for several months, to the serious injury of my health; from the commencement protesting against the outrage, and constantly demanding my freedom. Compelled at last by my persistent demands and the action of my government, a charge is preferred against me, for acts committed in Ireland, by some parties to me unknown; and to sustain it, the evidence of Corydon, Buckley, and Gallagher is produced, and an attempt is made to try and pass judgment upon me as a British subject, by finding a true bill of indictment against me upon the bribed and perjured testimony of these men. The Crown lawyers, finding there is not corroborative evidence to insure my conviction, suspend proceedings and return me to the gloom and misery of my prison, there to linger on for months to the great danger of my life.

I now most respectfully appeal to you, honored sir, earnestly and firmly demanding my immediate release. This government has had ample time to justify its action against me, and has failed to do so. I have already received the punishment due established crime, by six months' confinement. I have suffered irreparable injury, and a continuance of my imprisonment would, in all probability, be fatal to my life. My life

may be of small consequence to a power whose whole career and existence is marked by cruelty and the sacrifice of human life, but I am of some value to my family, and I trust my rights and liberty are worthy the protection of the American government.

I have the honor to remain, sir, your obedient servant,

WM. J. NAGLE.

Hon. CHARLES FRANCIS ADAMS,
*United States Minister.*

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*To the honorable members of the United States Congress in session assembled:*

The humble petition of John Warren, now a "convict" in Kilmainham jail, county Dublin, Ireland:

GENTLEMEN: I, a citizen of the United States by adoption, respectfully submit the following: I am an Irishman by birth; by adoption an American citizen. Partly in pursuit of my avocation as a member of the American press, and on private business, to see old friends and relations, I arrived in Ireland in the latter end of May, 1867. Immediately after landing, on the 1st of June, I was arrested, cast into a dungeon, and kept closely confined in silence and solitude for nearly five months, without any charge having been preferred against me and without obtaining a hearing of any kind. On the 10th of October I was summarily ordered before a magistrate, and evidence sworn against me by a witness classed and known as an informer. I was committed on his evidence, indicted on the 25th of October, tried, and I stand now a convicted and sentenced *felon for fifteen years' penal servitude* on the uncorroborated testimony of the notorious and infamous perjurer and informer Corydon, who swore he knew me to belong to the Fenian confederacy in America in the year 1863. The indictment charged me with the overt act of the 5th of March in the county of Dublin, Ireland, although the Crown lawyers admit I was not bodily present, but was then in the city of New York. The British law claims me to be a British subject, ignores my United States citizenship, and consequently your right to confer it. The Crown lawyers further hold all members of the so-called Fenian confederation guilty of the overt act of the 5th of March in the county of Dublin, Ireland. Corydon swears I was a member of the above-named confederation in America in 1863. England, claiming me as her subject, consequently indicts, arraigns, tries, convicts, and sentences me for an act committed in Ireland when I was in the city of New York, United States of America, and I am this moment a first-class convict in a British bastile, clothed in a suit of convict gray.

Gentlemen, my case is very plain. The English law under which I am claimed, as quoted by the judges who sat in my case, reads: "A British subject who removes to France or America owes the same allegiance to the Queen there as at home, twenty years hence as well as now. For it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own, no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former, for his natural allegiance was intrinsic and primitive and antecedent to the other, and cannot be divested without the concurrent act of that prince to whom it was due." Gentlemen, this law existed when the United States, on my forswearing all allegiance to all "foreign princes and potentates, *more especially the Queen of England*," conferred on me the rights of citizenship. If America acknowledged that law, she has perpetrated on me the most unjust, the most fraudulent injury. If she did not acknowledge it *then*, why does she now? England has, by indicting, arraigning, trying, convicting, and sentencing me on the uncorroborated evidence of a perjured informer for an act claimed to have been committed in America, which act as represented was being a member of an Irish national organization in the United States of America in 1863, ignored my previous citizenship, the right of the United States to confer it, and consequently has defiantly enforced this law, and the government of the United States, as represented by Mr. Johnson, Mr. Seward, and Mr. Adams, apparently coincide in this enforcement. If not, why were not some steps taken to defer action till your honorable body had an opportunity of adjudicating on so important a question? I ask you, gentlemen, as I lie to-night in my lonely dungeon, cut away from mother, wife, sisters, children, and friends, immured in a living tomb now for the last six months, what feeling must I have towards my government as represented in this matter? Why should it permit for an hour a citizen to stand convicted of treason-felony in Ireland on the ground of his being a member of an Irish national organization in America, and that, too, on the evidence of a perjured spy and informer? Which of the two governments up to the present is to me the more treacherous: the government which invites me to renounce all former allegiance whatsoever, confers upon me the full rights (on paper) of American citizenship, affixes its official seal to the act, and extracts a fee for so doing, and, when this citizenship is contemptuously and defiantly repudiated by the government whose allegiance I renounced, tolerates and abandons me to my fate, or the government from which I expect nothing, my natural enemy, the enemy of every aspirant for freedom, the enemy of my very existence, of the existence of my race, and of my adopted country?

Observe to what an extent run the claims of the British government. England claims, in the enforcement of what she calls a right, that several millions of the citizens of the United States are her subjects, and defiantly in proof of this has convicted me, with others, to the doom of penal servitude, after coquetting with Mr. Johnson, Mr. Seward, and Mr. Adams for five months about my release, for an occurrence which took place in Ireland when I was in America; thereby enforcing her claim on my allegiance to the letter. I cannot but admire England's independence. Has the chivalry of America departed? And yet, gentlemen, England goes still further in her claims. I find there is yet another of her laws which even claims the children and grandchildren of British subjects born in America as subjects. An eminent commentator on this law says: "But by several more modern statutes these restrictions are still further taken off, so that all children born out of the King's ligeance, whose fathers or grandfathers by the father's side were natural-born subjects, are now deemed to be natural subjects themselves to all intents and purposes, unless their said ancestors were attainted beyond the seas for high treason."

I admit that England does not presume to enforce this last-quoted statute at present, but should she be permitted to enforce the first with impunity, the assertion or non-assertion of the other will be with her a question of policy, not of principle, and she may at any time claim half the population of the United States as her subjects. Now, gentlemen, as I have before mentioned, my case is plain. I have quoted the law under which as a British subject I stand convicted for "treason-felony" on the evidence of a spy and perjured informer, and for being a member of an Irish national organization in America, as sworn, in 1863. You know also, gentlemen, the rights guaranteed to me by the Constitution of the United States and the naturalization laws. Am I under those laws a citizen of the United States and entitled to her full protection, or am I under the English statutes a British subject and amenable to English laws in America? I will state, gentlemen, in conclusion, that even as a British subject I have violated no British law. My name is connected with an alleged expedition, but there is not one iota of corroborative evidence to identify me in connection with it, as your honorable body may have learned from the published evidence long before you received this communication; and even if it did exist, the very evidence produced, purchased and perjured as it was, proved that if a hostile design ever existed it was abandoned, and that the parties were thrown on the shore by stress of weather and starvation. The only case they have established against me was that I landed in Ireland from a fishing boat, which fishing boat took me off a vessel out at sea. No documents, no arms; I attempted no disguise; had no connection with any person or persons in Ireland.

I again, gentlemen, repeat that I am suffering in an English bastile the most excruciating, degrading, and servile tortures, for no other proven offense, before my God, than that the paid informer Corydon swore that he knew me in America to belong to an Irish national organization in America.

Gentlemen, in the name of our common country, in the name of freedom, in the name of God, I ask of you to take hold of this matter vigorously, and compel England to expunge from her law-books every presumption bearing on the rights of the American citizen. If she does not do it, wipe her from the face of the earth, and God will bless you.

JOHN WARREN.

KILMAINHAM JAIL, *November* 28, 1867.

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*Mr. Adams to Mr. Seward.*

No. 1483.] LEGATION OF THE UNITED STATES,
*London, December* 4, 1867.

SIR: I have the honor to transmit a document published for the use of Parliament, containing the latest portion of the correspondence relative to the questions in dispute between the two countries.

From the tone of the reply of Lord Stanley, in connection with your dispatch, just received, No. 2093, of the 16th of November, it seems plain that nothing more can be expected from this negotiation. I shall, therefore, in accordance with your desire, give it out hereafter as so understood.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

## NORTH AMERICA, NO. 2, (1867.)

### FURTHER CORRESPONDENCE RESPECTING BRITISH AND AMERICAN CLAIMS ARISING OUT OF THE LATE CIVIL WAR IN THE UNITED STATES.

### No. 1.

*Lord Stanley to Sir F. Wright Bruce.*

FOREIGN OFFICE, *September* 10, 1867.

SIR: The minister of the United States called upon me to-day and communicated to me a dispatch, of which, however, he was not authorized to give me a copy, from Mr. Seward, dated the 12th of August, in reply to my dispatch to you of the 24th of May, respecting the mutual claims of the two countries on each other arising out of the late civil war.

By this dispatch Mr. Adams is authorized to assure me that Mr. Seward did not understand my previous offer of arbitration to apply only to claims arising out of the depredations of the Alabama, to the exclusion of those arising out of the depredations of vessels of the like character, but, on the contrary, understood the offer to apply equally to all such claims.

The President, Mr. Seward says, considers the terms of the offer of the British government to go to arbitration upon the question whether, in the matters connected with all those vessels out of whose depredations the claims of American citizens have arisen, the course pursued by the British government and those who acted upon its authority was such as would involve a moral responsibility to make good, either in whole or in part, the losses of American citizens, to be at once comprehensive and sufficiently precise to include all the claims of American citizens for depredations on their commerce during the late rebellion, which have been the subject of complaint on the part of the government of the United States.

But Mr. Seward goes on to say that the government of the United States would deem itself at liberty to insist before the arbiter that the actual proceedings and relations of the British government, its officers, agents, and subjects, towards the United States in regard to the rebellion and the rebels, as they occurred during that rebellion, are among the matters which are connected with the vessels whose depredations are complained of; just as in the case of general claims, alluded to in my dispatch, the actual proceedings and relations of her Majesty's government, its officers, agents, and subjects, in regard to the United States in regard to the rebellion and the rebels, are necessarily connected with the transactions out of which those general claims arose.

Mr. Seward further observes that my plan seems to be to constitute two descriptions of tribunals: one an arbiter to determine the question of the moral responsibility of the British government in regard to the vessels of the Alabama class; and the other a mixed commission, to adjudicate the so-called general claims of both sides; and a contingent reference to the same or other mixed commissions, to ascertain and determine the amount of damages for indemnity to be awarded in the cases examined by the first tribunal in the event of a decision of moral responsibility in favor of the United States. But Mr. Seward says that the government of the United States do not consider any distinction as to principle between the two tribunals to be necessary, and that in every case they agree only to unrestricted arbitration. It may be convenient, indeed, that the claims should be distributed between the two tribunals, both of which, however, the government of the United States consider should proceed upon the same principle and be clothed with the same powers.

Mr. Seward concludes his dispatch by saying that the President will be gratified if the explanations contained in it should conduce to the removal of the difficulties which have heretofore prevented the two governments from coming to an amicable and friendly understanding and arrangement.

I reserve for a future occasion any observations that I may have to offer on Mr. Seward's dispatch.

I am, &c.,

STANLEY.

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### No. 2.

*Lord Stanley to Mr. Ford.*

FOREIGN OFFICE, *November* 16, 1867.

SIR: In my dispatch to Sir F. Bruce of the 10th September, I confined myself to a mere statement of the substance of a dispatch from Mr. Seward which Mr. Adams had communicated to me in reply to my dispatch of the 24th of May respecting the claims arising on either side out of the events of the late civil war in the United States.

Her Majesty's government having, since the date of my dispatch, fully considered the terms of Mr. Seward's dispatch, I will no longer delay acquainting you, for communication to that minister, with the impression which it has made upon them.

Her Majesty's government observe that the President of the United States considers the terms used in my dispatch with reference to the so-called Alabama claims to be at once comprehensive and sufficiently precise to include all the claims of American citizens for depredations upon their commerce during the late rebellion, which have been the subject of complaint upon the part of the government of the United States; those terms being, to quote the precise words of my dispatch of the 24th of May, applicable to this class of claims, and which, in substance, repeats those used by me in my dispatch of the 9th of March, that the question on which Great Britain was ready to go to arbitration was, "whether in the matters connected with the vessels out of whose depredations the claims of American citizens have arisen, the course pursued by the British government and by those who acted upon its authority was such as would involve a moral responsibility on the part of the British government to make good, either in whole or in part, the losses of American citizens."

In the same and in previous dispatches it will be found that, whilst agreeing to this limited reference as regards the so-called Alabama claims, I have repeatedly stated that her Majesty's government could not consent to refer to a foreign power to determine whether the policy of her Majesty's government in recognizing the Confederate States as belligerents was or was not suitable to the circumstances of the time when the negotiation took place. After referring, however, to the terms of my dispatch of the 24th of May, Mr. Seward goes on to say that, in the view taken by the United States government, that government would deem itself at liberty to insist before the arbiter that the actual proceedings and relations of the British government, its officers, agents, and subjects, towards the United States in regard to the rebellion and the rebels as they occurred during that rebellion, are among the matters which are connected with the vessels whose depredations are complained of; just as, in the case of the general claims alluded to by me, the actual proceedings and relations of her Majesty's government, its officers, agents, and subjects, in regard to the United States in regard to the rebellion and the rebels, are necessarily connected with the transactions out of which those general claims arise.

The language thus used by Mr. Seward appears to her Majesty's government to be open to the construction that it is the desire of the United States government that any tribunal to be agreed upon in dealing either with the so-called Alabama claims or with the "general claims" might enter into the question whether the act of policy of her Majesty's government in recognizing the Confederate States as a belligerent power was or was not suitable to the circumstances of the time when the recognition was made; a construction which, after the distinct and repeated avowal of her Majesty's government that they could not consent to a reference of such a question, her Majesty's government can hardly suppose that it was intended by Mr. Seward that the passage in his dispatch should bear.

But to prevent any misapprehension on this subject, her Majesty's government think it necessary distinctly to say, both as regards the so-called Alabama claims brought forward by citizens of the United States and as regards the general claims, that they cannot depart, directly or indirectly, from their refusal to "refer to a foreign power to determine whether the policy of recognizing the Confederate States as a belligerent power was or was not suitable to the circumstances of the time when the negotiation was made."

As regards the so-called Alabama claims, the only point which her Majesty's government can consent to refer to the decision of an arbiter is the question of the moral responsibility of her Majesty's government, on the assumption that an actual state of war existed between the government of the United States and the Confederate States; and on that assumption it would be for the arbiter to determine whether there had been any such failure on the part of the British government as a neutral in the observance, legally or morally, of any duties or relations towards the government of the United States as could be deemed to involve a moral responsibility on the part of the British government to make good losses of American citizens caused by the Alabama and other vessels of the same class.

As regards the general claims, the question of moral responsibility on the part of her Majesty's government does not, and cannot, come into dispute at all.

Mr. Seward rightly supposes that her Majesty's government contemplated two tribunals for the adjudication, one of the Alabama claims, the other of the general claims; the one being, in the first instance, at all events, the tribunal of an arbiter, who would be called upon to pronounce on the principles of the moral responsibility of the British government, and on the nature of whose decision would depend the question of the appointment of a mixed commision for the examination in detail of the several claims of citizens of the United States to which that decision applied, namely, those arising out of the depredations of the Alabama and other similar vessels, and the adjudication of the sums payable in each case; the other, in its commencement and to its close a

purely mixed commission, for the examination of the general claims of the subjects and citizens of both countries arising out of the war, and the adjudication of the sums payable by either country in each case.

The distinction between the two classes of claims is clear: the one may never come before a mixed commission, and therefore may not require the assistance of an arbiter to decide differences of detail arising between the commissioners; the other, though originally brought before a mixed commission, may possibly require the intervention of an arbiter in case of a difference of opinion among the members of the commission which could not be otherwise reconciled, and for which case provision would be made in the ordinary way in the convention for the settlement of the mixed claims by the insertion of articles in regard to the selection of an arbiter.

The functions of such an arbiter, as well as of an arbiter for a like purpose in the other mixed commission, for which provision would have to be made to meet the contingency of the so-called Alabama claims coming eventually under the cognizance of a mixed commission, would have nothing in common with the functions of the arbiter, to whom the question of principle involved in the last-mentioned class of claims would be referred.

Her Majesty's government cannot but apprehend that, if Mr. Seward really requires unrestricted arbitration as applicable to both classes of claims, and that the tribunal in both classes of cases should proceed upon the same principles and be clothed with the same powers, he has not fully considered the wide and inevitable distinction which exists between the classes; and in directing you to submit to the consideration of Mr. Seward the explanations and observations contained in this dispatch, I have to instruct you to express the earnest hope of her Majesty's government that the government of the United States will, on further reflection, accept without hesitation the proposal made in my dispatches to Sir F. Bruce of the 9th of March, and of the 24th of May, both of this year, namely, "limited reference to arbitration in regard to the so-called Alabama claims," and "adjudication by means of a mixed commission of general claims."

You will furnish Mr. Seward with a copy of this dispatch.

I am, &c.,

STANLEY.

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*Mr. Adams to Mr. Seward.*

No. 1489.] LEGATION OF THE UNITED STATES,
*London, December* 6, 1867.

SIR: I obtained an interview on Tuesday last with Lord Stanley for the purpose of renewing the representations as directed in your dispatch No. 2087, of the 5th of November, respecting the difficulties growing out of the state of things in Ireland. I explained the precise nature of the question as applicable to naturalized American citizens. I read to him the chief passages of your dispatch, and concluded by asking him to reconsider the former decision of the government so far as it relates to supplying better security to our citizens in that island.

His lordship asked me if I had any special measure to suggest. I said, nothing beyond that already specified in your dispatch No. 2049, of August last, and the later one already referred to. He said that passports had long since proved to be of little avail. Unless the descriptions were very accurate, they were easily transferred from hand to hand; besides which, they had become rather obsolete here. At any rate, it seemed to him that whatever evidence was necessary to identify citizens was a thing to be supplied in America, and therefore should be suggested from there. He asked me some questions about the forms of naturalization. I said that they always involved the issue of formal certificates in the last stage of the process. Why, he asked, would not that do? I said it might, in most cases, provided it was given to be understood that they were essential as a protection. But, in course of time, many were lost by neglect to preserve them, or other accident, and it was a long process from here to procure official copies. There was also a class of cases of children under age at the time of naturalization

who grew up and claimed citizenship by virtue of the act of their father, without need of any legal process for themselves. That claim was recognized with us. Some cases of this kind had occurred since I had been here. There had been much trouble in consequence, and some hardship.

His lordship said he was at a loss to perceive what they could do, but he would take the matter into further consideration and consult with Lord Mayo about it. I said that, so far as I knew, there was no case left of arrest and detention without assigned cause and provision made for trial.

The question was, therefore, at present, only one of a prospective character. His lordship said he believed this state of things would not last much longer.

I gently reminded him of the fact that this had been announced very formally last year; yet, here we were. He admitted the truth of it, but rested on the discouragement incident to the failure of all the schemes.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1490.] LEGATION OF THE UNITED STATES,
*London, December* 7, 1867.

SIR: A person passing under the name of Berry, or Bowry, was arrested a few days ago in the streets of this city and brought before one of the magistrates on a charge of being concerned in the Fenian conspiracy against this government. In the course of the examination it was sufficiently proved that his real name was Ricord O. S. Burke.

The evidence was thought sufficient to justify his solicitor in counting upon his being held for trial at the central criminal court.

I have the honor to transmit a copy of the London Times, containing the report of the preliminary proceedings.

The relatives of Mr. Burke have engaged legal assistance in his behalf. But the solicitor, Mr. Norton, writes to me that he has no funds with which to pay for it, and forwards an application from him for assistance at the public expense. I have written in reply to the effect that I have no funds to dispose of for that purpose, and no authority to make any engagement without instructions from the government. To this answer the solicitor has responded by requesting me, on Mr. Burke's behalf, to apply to you for the requisite authority.

On examination of the Army Register of the United States, it appears that one Ricord O. S. Burke, whom I presume to be the same person, served in the 15th regiment of New York engineers, first as a second lieutenant and afterwards as captain, during a portion of the war.

On the 6th of December, 1865, he applied to this legation for advice and protection, he having been subjected to arrest and examination on his arrival at Liverpool on suspicion of treasonable designs, which he entirely disavowed.

He denied that he was a Fenian, although his sympathies were with them.

He had been released, and reported himself to be then in lodgings at No. 4 Suffolk Place, Bermondsey, London, a distant portion of the town, on the south side of the river.

A passport was supplied to him, and he was cautioned to be prudent at that period of excitement, and, in case of its increasing, he was advised to withdraw at least for a season to the other side of the channel. Since that date, nothing has been heard of him until the moment of his arrest and present application.

I have stated these circumstances in full, for the purpose of providing you with all the information in my power to enable you to judge of the propriety of his application. I am, moreover, informed that the trial will probably come on before the end of the month. Hence, if you should have instructions to give, it may be advisable to forward them by telegraph.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, December 2, 1867.]

## THE FENIAN CONSPIRACY.

### ADJOURNED EXAMINATION OF BURKE AND CASEY.

On Saturday Sir Thomas Henry sat specially at Bow street police court for the further investigation of the charge of treason-felony preferred against Ricord Burke, a colonel in the so-called Fenian army, *alias* Bowry, *alias* Berry, *alias* Winslow, and the minor charge of assaulting Inspector Thompson, of the detective force, in the execution of his duty, preferred against the above-mentioned prisoner and Joseph Theobald Casey, conjointly.

Mr. Poland, instructed by Mr. Pollard, of the treasury solicitor's office, appeared, as before, for the prosecution. With regard to the defense a difficulty arose, as two learned counsel were in attendance—Dr. Kenealy, who informed the magistrate that he was instructed for both prisoners by Mr. Norton, and Mr. Griffiths, instructed by Mr. Ring for the prisoner Burke. Considerable discussion arose on this point. Sir Thomas Henry pointed out that the prisoner was to elect which gentleman he considered to be his solicitor, Mr. Ring or Mr. Norton. Burke had some difficulty in making the selection. He had certainly seen Mr. Ring, but had become uneasy at that gentleman not keeping an appointment. That, however, might be no ground of blame against Mr. Ring, who might have been engaged elsewhere in his interests. Mr. Norton said he had been instructed by Casey's brother. The prisoner expressed a wish to see Mr. Ring before deciding. Mr. Ring, however, was absent, though Mr. Abrams, of Bow street, appeared to represent him, assisted by Mr. Ring's managing clerk, who said that Mr. Ring was under examination as a witness at the lord mayor's court, but would probably arrive very soon. Mr. Griffiths said that he had in his hand papers submitted to him by Mr. Ring, including notes in the colonel's handwriting. Burke requested to have them returned before he formed his decision, but Sir Thomas Henry thought the learned counsel could not be called upon to give up the documents to any one but the solicitor from whom he had received them. Both learned counsel and also Mr. Norton expressed their readiness to abide by "the colonel's choice." [It was noticed that Burke did not demur to being repeatedly called "the colonel" or "Colonel Burke," but seemed rather to acquiesce in it, replying without hesitation when so addressed.] Burke observed that he could find work for both gentlemen, and, as he could come to no decision till he had seen Mr. Ring, expressed his readiness to proceed, if they would act conjointly until Mr. Ring arrived. Dr. Kenealy, however, objected to this. He was quite ready to proceed as the colonel's counsel, if it was distinctly understood that the solicitor by whom he was instructed was recognized as the defendant's attorney. Otherwise he must withdraw. The decision must be made at once.

Colonel Burke said he would elect that Mr. Norton should be his solicitor, temporarily at all events, but he should wish to see Mr. Ring at the earliest opportunity.

Sir Thomas Henry said every opportunity would be afforded him.

[In the course of the day Mr. Ring attended, and it was arranged that he should have a private interview with Burke at the close of the proceedings.]

Colonel Burke then requested that all the witnesses should be ordered out of court.

Sir Thomas Henry gave the order, but remarked that as the colonel had now accepted

Dr. Kenealy as his counsel he must leave his defense in the hands of that gentleman, who would no doubt make every application that was necessary for his protection.

COLONEL BURKE. Then I wished to be placed in a position to communicate freely with my legal adviser.

Mr. Norton accordingly changed his seat to one nearer to the prisoner's dock, and in such a position as rendered communication between them perfectly easy.

Colonel Burke then asked for "writing materials and facilities for writing," in which respect also he was accommodated.

At the request of Dr. Kenealy, the evidence of Devany, as given at the first examination, was read over by the second clerk, Mr. Humphreys.

GODFREY MASSEY was then sworn: I am a native of Ireland, and went to America in 1856. I joined the American service at the time of the civil war. I held the rank of lieutenant colonel when that war ceased. In August, 1865, I joined the Fenian Brotherhood at Houston. I took no oath or pledge. I went to New York, where I arrived October, 1866. Between those times I was engaged in a commercial position at New Orleans. I kept up my influence; was a Fenian as far as my acts went, and did as much for the cause as I possibly could do. I knew James Stephens—rather well, too. I first knew him in New York. The object of the Fenian Brotherhood was the establishment of a republic in Ireland. I first saw Stephens early in October last. He had an office at 19 Chatham street, New York. He was the chief organizer of the Fenian movement. I have heard an account from him of his escape from prison and from Dublin by the assistance of friends within and without the prison. I knew Colonel Kelley in New York about this time. He was Stephens's deputy. I knew Burke in New York, at 19 Chatham street. I don't known that he held any distinct position in the brotherhood. I knew him as Captain Burke. I knew all three intimately. I knew Stephens's private residence in East Thirteenth and West Eleventh streets. I have seen the prisoner at Stephens's. I knew another person who was called Colonel Burke, (I think by courtesy,) and I gave evidence at his trial in Ireland. I knew McHafferty, Halpin, and Cluseret, who were all concerned in the movement. I gave evidence at the trial of M'Halpin. I have seen the prisoner in company with Kelly, McHafferty, and, I think, with Colonel Burke. I don't know that he was acquainted with General Cluseret. There was a meeting in New York, at which a discussion took place about the number of arms that could be obtained. It was a mixed meeting of military and non-military men. Burke was there, and said he had not nearly the number of arms he expected to have. He expected a *minimum* of 30,000, and only 4,000 to 5,000 had actually been obtained. They also spoke about the rising in Ireland, which was to have taken place at the next new year. That has now gone by. That meeting was held at East Thirteenth street. A day or two afterwards a purely military meeting was held, at which the same persons were present, except the non-military men. The discussion turned on the rising, and several officers volunteered to go. I can't say if the time of the rising was fixed, but the rising was determined on, and the officers volunteered to go to different parts of England. Their names were taken down by Kelly. I was one of those who volunteered, and my name was taken down with the rest, and five days after this occurrence Stephens was repudiated because he was insincere, having deceived both officers and others, and being also grossly incompetent in a military point of view. After that, Kelly acted in his place. I left New York on the 11th of January. I was not accompanied by any of the other military men. I believe Burke had sailed previously. I landed at Liverpool and proceeded to London, where I saw Burke not more than a day after my arrival. We met near a public house, of which I do not recollect the name. I do not remember what conversation we had. We afterwards lived together at 7 Tavistock street, in one room on the top loft. I do not know that he told me he had lived there when he was in London before. We went there in January, and I left on the 10th or 11th of February, he having left some days before. He went by the name of Wallis, and I by that of Cleburne. While in London I met all or nearly all the officers that I had known on the other side, and some that I had never seen before. Among others, I met Colonel Kelly, who was lodging at 5 North Crescent, Tottingham Court road. I have been there. I should know the landlord if I saw him, and should know his name. It was something like "Farrici." (Afterwards, being asked if it was "Fredorici," the witness replied, "That is it.") He was an Italian or German. Kelly was known as "Coleman," and Halpin as "Fletcher." Kelly was the chief of the Fenian body in London, and the organization and mobilization of the forces in Ireland was intrusted to my direction. I gave instructions to Burke, appointing him to Macroom, in the county of Cork. He was to make himself acquainted with the resources of the district, and when the rising did take place to destroy the means of communication, so as to force the regular army to march more on an equality with us. The telegraph wires were to be cut and the railways "tapped." By that expression I mean that small breaches were to be made in the iron work, so as to render communication impossible, or delay it, but that the lines were not to be destroyed for any distance. There were other officers at Macroom, but Burke was the senior. He was to communicate with the "centers," of course, that being the only way he could make himself acquainted, as I directed him to do,

with the resources of the district. A center is the head of an organization, corresponding, you may say, with a county. I brought some money with me from America—£550 sterling in gold, which I had received from Colonel Kelly. Before Burke left I gave him from £15 to £20, and I gave sums, varying from £15 to £30, to all the officers in London. At that time I did not know which was to be the night for the rising; it was not fixed before Burke left London. After he left, I was at a meeting at Kelly's private residence. That was on Sunday, the 10th of February; Kelly was there, and also three delegates from Ireland, viz, Mahoney, of Cork, Burn, of Dublin, and Arbinson, of Belfast, who constituted themselves into a directory to control the management of civil affairs in Ireland.

Being asked if he had any conversation with Burke before the latter left, the witness, with some irritation, demanded whether he was bound to state the purport of a private conversation.

Sir Thomas Henry said he certainly was; he had no privilege to suppress any portion of a conversation.

WITNESS. If I have no privilege, I shall claim it as a right.

Sir THOMAS HENRY. You have no such right; you are sworn to tell the whole truth, and you must tell the whole.

WITNESS. Then you will have to question it out of me.

Dr. KENEALY. That must be taken down.

Sir THOMAS HENRY. Of course; it is being taken down.

At Dr. Kenealy's request it was read over by Mr. Humphreys, the second clerk.

Dr. Kenealy said he thought the witness used the word "extorted."

WITNESS. I said "questioned," but I meant it in that sense.

From this point the witness answered all general questions with such curtness as to afford no intelligible information, and declined to remember anything that was not put to him specifically. On the other hand, all specific questions were objected to by Dr. Kenealy, who objected to Mr. Poland leading the witness. In each instance Sir Thomas Henry overruled the objection, saying that if the witness was hostile leading questions must be put. Upon this Dr. Kenealy said he did not believe that the witness was really hostile, for he must have given the information to the attorney for the prosecution, and by the course he was adopting every point of that glib statement was being put to him cut and dried, and he had only to say "yes" and "no." The witness indignantly denied that he had given the information to the solicitor to the prosecution, and declared that he did not know how they obtained it, but he was not accountable for it.

Sir Thomas Henry said the witness would be obliged to tell the whole truth at last, and he had much better give his evidence frankly, and not subject counsel to so much trouble and annoyance.

The witness did not see that. He thought it was much better that he should be questioned.

The examination proceeded for some time at a very slow rate, discussions on these points being renewed at almost every question. By this tedious process the following evidence was extracted from him: "In a conversation in London Burke told me that he had been in Birmingham in the Fenian business, purchasing arms, (rifles it is understood,) which had been shipped to Ireland. I do not remember that he said anything about caps or powder. He said that some of them were seized, I am not sure where, but I think he said at Queenstown. He said that he went by the name of C. E. Windsor. I do not knbw what the initials stood for."

At this point the discussion being renewed, Sir Thomas Henry again recommended the witness to save further trouble by stating the whole truth. It was useless to give so much trouble when he knew he must answer at last, and he was only wasting time.

WITNESS. Then if I do I must go through it from the beginning. Captain Burke said he had been to Birmingham and had purchased arms for the Fenians. He mentioned that he had obtained credit for £900. I cannot think for what time he said he had the credit. I think he did name the time, but I cannot think well enough to swear to it. I saw Fariola in London, at the lodgings of Cluseret, and also in Bedford square and Great Portland street. I think it was No. 5 in the square and 137 in Portland road. I do not recollect seeing Fariola at Kelly's, but I think he had called there. Fariola was chief of the staff to Cluseret. He was usually addressed as General Fariola. I last saw him at the court-house in Dublin during the trial of General Halpin. When I left London, in February, I went to Dublin, having been appointed commander-in-chief there. That appointment took place at the residence of General Cluseret, at which I was not present, but was informed of it by Kelly. Two delegates and General Cluseret were there. It was a meeting of the directory. I went through the different sections in Ireland, except in the north. It was appointed that the rising was to take place at midnight on the 5th of March. That arrangement was made in London, at Kelly's quarters, by him, Kelly, and Halpin combined.

Dr. Kenealy objected to this as hearsay testimony.

The witness, with some temper, declared that it was not hearsay, that he had it

direct from Kelly, and mutteringly added that the learned counsel "must have a very thick head."

Sir Thomas Henry advised the witness not to lose his temper while giving evidence.

The witness continued. On the 4th of March I was at Cork, and went to Limerick junction to make preparations for the following night. I was arrested there at 12 o'clock at midnight, on the arrival of the up train from Cork. I never saw Burke in London, but after he left Macroom I had a letter from him in London. I have not got it now, and do not know what has become of it. It is not my custom to keep such letters. I think it was dated from Waterford. I could not give its purport. I am not sure whether it was signed Wallis or Winslow. It was directed "Mr. Cleburne, 7 Tavistock street." I only know one Tavistock street, that which is off Tottenham Court road.

The witness here complained of fatigue, and by order of Sir Thomas Henry was accommodated with a seat.

Dr. Kenealy said he would reserve his cross-examination of this witness, but he should take this opportunity of asking what course Mr. Poland proposed to take with regard to Casey, who was only concerned in the minor charge.

Mr. Poland said he must admit that at present he was not prepared to carry the case further as against Casey; but from the result of inquiries which had been made by the police, he believed that if Casey were again remanded the case as against him might hereafter assume a more serious character.

Sir Thomas Henry said there was no doubt that Casey had assisted Burke in an attempt to escape.

Dr. Kenealy asked if Casey was to be included in the charge of treason-felony.

Sir Thomas Henry certainly inferred from the observations of Mr. Poland that it was not improbable.

Dr. Kenealy said that if so there ought to be some evidence to show a foundation for the charge.

Sir THOMAS HENRY. Not when counsel for the prosecution say that probably such evidence will be forthcoming hereafter.

Dr. KENEALY. But he is being kept in prison.

Sir THOMAS HENRY. He would be liable to some imprisonment for the assault. If there is no ground for the graver charge, I shall take his detention into account in dealing with the assault.

Dr. KENEALY. With that assurance from your worship I can have no further objection.

Mr. Poland then called GEORGE KYLOCK. I am a percussion-cap and ammunition maker and general dealer in fire-arms, at 45 Little Hampton street, Birmingham. I carried on that business in December, 1865. I know the prisoner Burke, though not by that name. I first saw him at my office, I believe, December 23. He had been before, and spoken to my assistant about a purchase of things which he had in stock. He mentioned to me that he had agreed with her for the purchase of a quantity of percussion caps. He saw me to settle the price, as the girl could not complete the transaction without me. He gave the name of Edward C. Winslow. He was stopping at the King's Head. At the time, or shortly afterwards, he had a place at 64 George street. He did not tell me who he was, except that he represented a mercantile firm. At other times he mentioned that there were three in the firm. The first lot I supplied him with were 25,000 small percussion caps, and 40 of Lemaitre and Girard's ten-shooter revolvers. There were also cases for the percussion caps. The cost of that first lot was £385 7*s.* 6*d.* The military percussion caps were in 20 cases, lying at the station to my order. When he paid me the money I gave him the order to receive them. He paid me the money on the spot. The order was in the form of a letter to Crowley & Co., the agents of the railway company. The 40 revolvers were delivered to his man Mallidy. I have his receipt here. I think he said he wanted a lot of revolvers. I said I could get them. I bought a lot from different makers, and he examined them at my office. He did not say what number he should want; I understood it would depend upon the price and quality; I understood a few hundreds, as many as could be got at a certain price and quality. You cannot get an unlimited number. I went with him more than once to Mr. Hill, a pistol maker, very soon after I first saw him—possibly the same day. We went to see what he had in stock. Winslow looked at a good many lots. I think his object in going was to point out to me the articles suitable for his trade. I made the purchases from Hill. I do not think Winslow bought anything direct from him. I have furnished to Mr. Pollard, of the treasury solicitor's office, a list of all the goods supplied by me to the prisoner. From first to last—that is, between the 23d of December, 1865, and the 13th of January, 1866—I sold him 657 revolvers. The gross price of the goods supplied was £1,972 odd, which was all paid but £18. That was for some cases which were to have been returned, and, as he did not send them back, they were charged to his account. All the goods were paid for. Besides the pistols there were some rifles, and also the implements that usually go with fire-arms—bullet moulds and the keys to lock and unlock the guns, if you regard them as separate articles from the guns. The payments were invariably made in cash; the money was paid when the

invoice was made out, with one exception. I had asked him to have a lot of rifles, and one day he came to me in a hurry and said he would take the lot, but I must give him credit till Saturday. I think this was on Thursday. At first I demurred to this, but we had become rather intimate since I first met him, and I had taken a liking to him from his agreeable manner. He is a particularly agreeable fellow; so, after some talk, I said I would run the risk, and let him have them. The price was 21*s.* 6*d.* each, and they came to £698 1*s.* 6*d.* The entry in my book is dated the 28th of December. I think that is the correct day. There were other goods ordered the same day, but they were paid for at the time. He was to have come to my office to pay for them on the Saturday, but he did not come. On Sunday, feeling rather uneasy at having this £700 floating about, I rode into town and called upon him at the King's Head Hotel in Worcester street, where he was staying. He said he was very glad to see me to pay me the money. I said I was equally glad to see him. He paid me the money. The rifles were packed in cases of 20, and the revolvers were loose, without any cases at all. The revolvers were delivered at his place in George street, to his man Mallidy. The witness here perceiving that the prisoner Casey was watching him with a somewhat peculiar smile, or rather grin, on his countenance, exclaimed, "I believe that is Mallidy. Now I see him laugh, I believe it is the man."

After a pause, during which the witness contemplated intently the no longer laughing face of Casey amidst the most profound silence,

Dr. Kenealy said this was a most serious matter, and he hoped the witness would be careful.

In answer to questions from Mr. Poland and Sir Thomas Henry, the witness added: I could not swear to him, as I took so little notice of him there. It is one of the men I saw at Winslow's, if it is not Mallidy, but I think it is he. There was an inscription over the door, "C. E. Winslow & Co., merchants and commission agents," I think. I am not quite sure about the "merchants." Winslow never told me he could make any composition. I have heard him speak about a sort of fire. When some stuff was seized at Liverpool I said "That must be the stuff that Winslow was always talking about," and that was the reason I first suspected that he was a Fenian. I don't recollect any conversations. I only remember his talking about it; not what he said. It was called "Greek fire." I think he said he knew how it was made. After he left Birmingham I received from him the two letters produced:

"JANUARY 29, 1866.

"DEAR SIR: I do deeply regret that I can't give you some orders. My messenger has returned from London and brought me no definite satisfaction. In short, I shall be compelled to go there and attend to matters personally. My health is improved, so that I think I may come straight soon. I am, however, positive on the subject of continued trade with you. Please present to Mrs. Kylock my best wishes for welfare of self and little Ellen, and receive the assurance of continued business activity, though postponed, and of personal friendship.

"E. C. WINSLOW."

"LONDON, *February* 5, 1866.

"DEAR SIR: I would have written ere this, but certain business here and in Glasgow kept me constantly occupied, added to which I may plead an illness of six weeks. I hope yourself, your lady, and little Ellen are quite well. Please present to Mrs. Kylock my most sincere wishes for welfare and happiness. I want a full quotation of prices embracing Enfields, Whitworths, carbines, pistols, revolvers, size and quality, and of all the accompanying materials, as I expect to do a fair business with you very soon, and want to be posted up. How is Hill? Has he ever got over that interesting difference of opinion which existed between you? I don't quite forget that pistol you promised me. By Jove! I must have that when I see you next. I am going down to Woolwich, and will be back in three or four days' time. I want you to write me by return of post. I will stop at the International Hotel, near the Southeastern Railway station, London bridge, and will expect to find a note from you when I return. Pardon haste. Kind regards to Ruberry.

"E. C. WINSLOW,
"('*The man of many apologies.*')"

The witness also produced a pressed copy of a letter from himself to the prisoner, replying in equally friendly terms, and inclosing the required quotations. The Mr. Ruberry referred to was a private friend of witness.

Mr. WILLIAM JAMES HILL, of 9 St. Mary's row, Birminghan, gun and pistol maker, stated: At the end of 1865 Mr. Kylock came to my place with the prisoner, who said his name was Winslow, and asked what quantity of revolvers I had got, and what were the lowest prices. I told him the prices, and he asked if that would be the lowest if he took a large quantity, and what I considered a large order. I said "one or two

hundred." He replied, "I don't consider that a large order; I can give you a far larger order than that." He then asked what quantity I could supply by the following Wednesday. I told him, and he desired me to send them. He said he could take any quantity I could supply for eight or nine months. I said I could let him have 100 a week. The prisoner examined a portion of the stock. On Wednesday I sent the quantity agreed upon to Mr. Kylock's office. They were to be paid for by Mr. Kylock. I saw the prisoner a great many times. The quantities supplied by me to Mr. Kylock for the prisoner were: on the 27th of December, 135; on the 29th of December, 40; on the 4th of January, 49; and on the 7th of January, 28. I made a pistol for Mr. Kylock, for a gift, for which I charged him £5 10*s*. That was the cost price, or thereabout. I made a larger quantity of revolvers for the prisoner, but did not supply them, in consequence of a misunderstanding between me and Mr. Kylock. I did not know what Winslow wanted the arms for, but having heard him say something about the southern confederacy, I thought it was for that.

ELIZA LAMBERT, 7 Tavistock street, Bedford square, identified the prisoner Burke and the witness Massey as having lodged there in January or February, 1866, under the names of Wallis and Cleburne. Wallis (the prisoner Burke) left first. She could not tell the date. Had no rent book. Never kept one against them. They had the front room on the third floor, for which they paid 10*s*. a week rent. About a fortnight after they left, Inspector Clark, of the detective force, called upon her.

Mr. Poland here applied for a further remand.

Dr. Kenealy hoped the prisoners would not be remanded from week to week. The prosecution had had one week already, and surely the case might be closed at the next examination.

Sir Thomas Henry said that after the evidence which had been given that day the prosecution could hardly be accused of wasting time.

Mr. Poland said the police were still engaged in inquiries, from which further results were being obtained, and he certainly could not pledge himself to complete the case on the next occasion.

Dr. Kenealy hoped Casey would be admitted to bail.

Sir Thomas Henry could not consent to that after the recognition of Casey by Mr. Kylock.

Dr. KENEALY. But did you observe the manner in which that evidence was given?

Sir THOMAS HENRY. I did, and do not take the view of it which you would suggest.

Both prisoners were again remanded.

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*Mr. Seward to Mr. Adams.*

No. 2106.] DEPARTMENT OF STATE,
*Washington, December* 9, 1867.

SIR: Your dispatch of 22d of November, No. 1484, was duly received. It is an occasion for large satisfaction that in accordance with the instructions of this department you made a representation to her Majesty's government in behalf of the prisoner McCondon, otherwise known as Shore, and that he was reprieved. It appears that, on the most careful reflection which you could give to the matter, you came to the painful conclusion that to interpose in the same manner in behalf of the prisoner Gould would be to do more harm than good.

It is not difficult to understand the great embarrassment which surrounded that case. The crime was that of murder, and the conviction and sentence were in conformity with the municipal law. On the other hand, this offense against municipal law is very generally regarded by those who, within and without the British realm, are agitating for a change in Ireland, as an incident in a meritorious political movement. Similar conflicts of sentiment occur in every political disturbance.

The judgment of mankind is that in revolutionary movements which are carried on by large masses, and which appeal to popular sympathy, capital executions of individuals who fall within the power of the government are unwise and often unjust. Such severity, when practiced upon a citizen of a foreign state, excites a new sympathy by enlisting feelings of nationality and patriotism. The fellow-citizens at home of

the sufferer in a foreign country naturally incline to believe that the just and generous principle to which I have referred is violated in his case The soundness of this principle is quite easily understood after the revolutionary movement is ended, although it is difficult to accept the truth in the midst of revolutionary terror or violence. When the President of the United States dismissed the prosecutions in the United States courts of the so-called Fenians who attempted an unlawful and forbidden invasion of Canada, and returned them to their homes at the expense of the government, and at the same time obtained, through the wise counsels of Sir Frederick Bruce and the governor general of Canada, a mitigation of the capital punishments adjudged against those who were convicted in the Canadian courts, the President adopted proceedings which have practically assured the continuance of peace upon the Canadian border. It was believed here that similar clemency could be practiced in the Manchester case with benign results. Your dispatch leads us to believe that her Majesty's government was so thoroughly convinced of the necessity of pursuing a different course in that case that further interposition than that which you adopted would have been unavailing and injurious to citizens of the United States. Certainly it belonged to the British government to decide whether the principle which we invoked could be wisely applied in the Manchester case.

Under these circumstances it is necessary to acquiesce in the decision to which you arrived in the matter, after exercising a discretion which in no instance, during your long public service, has failed to command the approval and commendation of this government.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1492.] LEGATION OF THE UNITED STATES,
*London, December* 11, 1867.

SIR: I have the honor to transmit a copy of the London Times of this morning, containing a communication from Mr. Vernon Harcourt, who is well known under the signature of Historicus, and also a leading article in the editorial columns on the subject of the law of expatriation. The mode in which this difficult matter is treated by both writers affords encouragement to the belief that something may be done to harmonize the rule as well here as at home into one system. In my opinion nothing is more desirable, in order to remove amicably the causes for future collision on the subject.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, December 11, 1867.]

WHO IS A BRITISH SUBJECT?

*To the Editor of the Times:*

SIR: I am unwilling, upon the strength of a telegraphic report, to animadvert upon the language attributed to the President of the United States. I shall say nothing,

therefore, of the tone or the method in which a matter of the most supreme consequence seems about to be introduced to our attention. Our business in any case is to understand our own situation and to take care that we, at all events, are in the right.

It is quite plain that we are about to be called upon, courteously or otherwise, to consider the principles on which we found the rights and assert the claims of British citizenship. This is a subject so complicated in the double bearing of its legal and political character that I cannot attempt, in the space I could ask at your hands, to treat it in a complete and satisfactory manner. I think, however, that I shall be able in a moderate compass to satisfy your readers that there is much in the existing condition of the question which requires mature revision and fundamental reform.

And first let us ascertain who, according to the law of England, is a natural-born British subject, owing allegiance and entitled to the protection of the British Crown.

I. Every man born within the dominions of the Crown is born within the legiance of the Crown and is a British subject, and that whether the parents are British subjects or aliens.

This was the simple doctrine of the common law. A child born of foreign parents in England was an Englishman. A child born of English parents abroad was a foreigner. (I state the matter broadly, without reference to the limitations of the statute of Edward III, which in some respects may be considered as in affirmance of the common law, and was an enabling, not a compulsory statute.) In the reign of Charles II, a special statute was passed to naturalize the children born abroad to Englishmen who had fled to foreign parts in the Commonwealth.

II. By a statute of George II, (substantially re-enacting a statute of Anne,) all children of natural-born British subjects born abroad were made natural-born subjects, (4th of George II, cap. 21, A. D. 1731:)

All children born, or which shall hereafter be born, out of the legiance of the Crown of Great Britain, whose fathers were or shall be natural-born subjects of the Crown, are hereby declared to be natural-born subjects of the Crown to all intents, constructions, and purposes whatsoever.

The quality of citizenship was carried on to the next generation by a statute of George III. The preamble is so remarkable that I think it right to call special attention to it, (13th of George III, cap. 21, A. D. 1773.) After reciting that divers natural-born subjects of Great Britain have for lawful causes, especially for carrying on commerce, been obliged to reside abroad, the preamble proceeds: "And whereas it is equally just and expedient that the kingdom should not be deprived of such subjects, nor lose the benefit of the wealth which they have acquired, and therefore that not only the children of such natural-born subjects but their children also should continue under the allegiance of his Majesty;" then enacts that the children of fathers made British subjects by the act of George II (*i. e.*, the grandchildren of a natural-born British father) "are hereby declared to be natural-born British subjects to all intents, constructions, and purposes whatsoever."

Now, the character and effect of these statutes is singular in the extreme. The persons with whom they deal are persons who, but for those statutes, would be foreigners. Yet, by a municipal law of this country, with which they have nothing to do, we impose upon them, without any option on their part, a citizenship which they very possibly do not at all desire. If the statutes had been of an enabling character alone, or which conferred privileges without imposing liabilities, the thing would have been intelligible; but the words of the preamble I have cited and of the enactment forbid such an interpretation. I will put a case—of course an extreme one—to test the extent to which the English doctrine of citizenship and allegiance is carried. Suppose the wife of a Frenchman, (who himself has never left France,) traveling in any part of the British empire, is there delivered of a child—that child, though it is conveyed the next day to France, and never revisits British soil, is forever a British subject, and by our law owes an indelible allegiance to the British Crown. But that is not all; by the statute of George II this man's children are all likewise created natural-born British subjects, and by the statute of George III his grandchildren likewise. Thus it will be seen that the accident of a premature delivery will have created, it may be, 50 natural-born British subjects, who will have all the rights and all the liabilities of English citizenship, though they may have less than nothing in common with the interests of the English empire. Now, suppose one of these 50 grandchildren to be taken in arms in a war between France and England, and to be indicted here for treason against the British Crown. I know no means by which, in the face of these statutes, he could plead that he was not a natural-born British subject. It may be said that no such indictment would ever be preferred, and that is certainly true. But is it not a good argument against the continuance of a law that it is one which you would never venture to enforce? It may be remarked, however, that at this moment a gentleman holds his seat as a natural-born British subject in the House of Commons whose citizenship was affirmed by the decision of an election committee to rest on the very same foundation as that of the grandchildren I have supposed. So much for the quantity of British citizenship, which I think it will, on reflection, be admitted is scattered broadcast by

our present law in a somewhat profuse and inconsiderate degree. Such citizens may well ask, "What have we to do with England?" and England may well ask, "What have I to do with such citizens?"

Now let us examine a not less important point, the quality of British citizenship. Its characteristic and distinctive principle is that of indelible and indefeasible allegiance. The doctrine is stated by Blackstone in all its breadth. But when he affirms that "it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own, no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former," he lays down a proposition which cannot be maintained. I fear I shall be thought by some to intrude on sacred things when I lay profane hands on the time-honored maxim, "*Nemo potest exuere patriam;*" but when the soundness of the doctrine is challenged, we must see if it is capable of being sustained. Now, so far from this maxim being, as Blackstone asserts, a "principle of universal law," the principle of universal law is exactly the reverse. The doctrine of that great people who, beyond all others, had cultivated the arts of empire and perfected the science of law, is set forth in a well-known passage of Cicero:

"Ne quis invitus civitate mutetur; neve in civitate maneat invitus. Hæc sunt enim fundamenta firmissima nostræ libertatis, sui quemque juris et retinendi at dimettendi esse dominum."—*Orat. pro Balbo*, cap. 13.

How far from the truth it is that the restrictive principle which the English law has borrowed from the feudal system ever obtained among modern nations sufficiently appears from the following passage of Bynkershoek:

"Ubi ea prohibitio non est, *ut non est apud plerasque Europæ gentes*, subditis licebit, ut ipse quidem opinor, civitatem suam relinquere, in aliam migrare et ibi sub alio Principe militare. Si ut modo dicebam, non sit lex quæ prohibeat utique licet subditi conditionem exuere et civitatem ut lubet mutare. Juris publici scriptores uno ore in id consentiunt neque dissentit Grotius, apud Moschos tamen illud non licere addit ibi Grotius; *non licere etiam apud Chinenses et Anglos*, earum gentium sententia est, plus semel publice testata. *Et ubique licet ubi civitas non carcer est.*"—Q. J. P., cap. 22.

The reader will not fail to observe the covert sarcasm which is conveyed by coupling together the English and the Chinese as joint tenants of a doctrine which is said to be held by no nation where the State is not a jail.

I could, if need were, multiply authorities to any extent, from Bynkershoek down to Wheaton, to show that the maxim of indissoluble allegiance has no place in the doctrine of public law. But it is unnecessary to do so, nor no modern jurist will be found to dispute the assertion. The truth in this doctrine had its origin in a system which is obsolete, and found its application in a condition of society which has passed away. The feudal tenure, when every man held mediately of some lord, and ultimately of the king, did, in fact, convert the state into that *carcer* at which the Dutch jurist sneers. With the exception of the few persons who resided abroad for commercial objects, Englishmen in the middle ages seldom left the country for any legitimate purpose. Those who withdrew themselves from the realm were regarded as persons who sought to evade services which were due from them, and deserters from the standard to which they could at any instant be summoned. The obligations of feudal service have disappeared, and the principles which pertained to it have become antiquated. But this is not all. There has arisen a state of things in modern society to which our forefathers were strangers. That great and never-ceasing tide of emigration, in which the sons of our soil seek in other lands a fortune which the limited resources of their own country denies them, is a phenomenon for which the conceptions of the feudal law have made no provision. The consequence is that we find ourselves in the presence of political facts which are wholly irreconcilable with our legal theory. It is in vain that we proclaim the doctrine, *Nemo potest exuere patriam*, while year by year thousands and tens of thousands of our subjects are transferring their allegiance to other governments, and incorporating themselves in other states. These are facts which the technicality of the law may refuse to recognize, but of which an enlightened statesmanship must needs take account.

And, in fact, we have never, and do never, politically attempt to enforce the theory of our law. So long ago as the case of Æneas Macdonald, the English government shrank from carrying into execution the sentence of the law. Macdonald was a native of Great Britain, who had received his education from early infancy in France, and spent his riper years in a profitable employment in that kingdom, and had accepted a commission in the service of the French King. Having, while acting under that commission, been taken in arms—of course in a legitimate war—against the King of England, he was indicted and convicted of high treason; but he was afterwards pardoned on condition of his leaving the kingdom forever. The logical consequence of this ill-omened doctrine was the immediate cause of the unhappy war with America in 1812. In that war, acting upon this theory of citizenship, the English government threatened to punish as traitors its native subjects naturalized in the United States and taken in arms. This menace was met by the arrest of British officers as hostages, on whom the United States announced their intention to retaliate. The English gov-

ernment shrank from carrying out their threat, and these "natural-born British subjects" were afterwards included in the cartels of exchange. These are instances in which the attempts to enforce the doctrince of indissoluble allegiance has broken down. It would be easy to cite many others, and to imagine an infinitude more. Indeed, when we remember that the English law regards not only every person born in any part of the British empire, but their children and grandchildren, as British subjects, owing allegiance to the British Crown, and when we consider how considerable a fraction of the whole population of the United States occupy this situation, the results of the doctrine would be positively ludicrous if they were not imminently dangerous.

I need hardly say that in practice no English government acts upon the legal theory. In the late war in the United States, many persons sought to escape from the conscription on the plea that they were British subjects; but I believe that the English government never attempted to interpose its offices in the case of persons who had clearly exhibited their intention to adopt the nationality of the United States. If the legal theory were adhered to, it would be a curious subject of inquiry how many persons in the American armies on both sides of the late war would be liable to indictment in this country as natural-born British subjects for having taken service with a foreign belligerent.

The evil of the present state of things is that the only principle of law to which the English government can appeal is one on which it cannot in practice take its stand. To treat as British subjects all whom the law calls British subjects is simply impossible. But short of this, whom is it to treat or not to treat? That is a question of a most embarrassing and dangerous kind, which it has to solve at its own discretion, without the guidance of any fixed principles or settled practice. In the year 1795, one of the judges of the Supreme Court of the United States, in the great case of Talbot *vs.* Jansen, (3 Dallas's Reports, p. 154,) thus expressed himself:

"A statute of the United States relative to expatriation is much wanted, especially as the common law of England is, by the constitution of some of the States, expressly recognized and adopted. Besides ascertaining by positive law the manner in which expatriation may be effected, it would obviate doubts and render the subject notorious and easy of apprehension, and furnish the rule of civil conduct on a very interesting point."

It is a singular circumstance that though 70 years have elapsed since this judgment was pronounced, America is as much as ever, and almost as much as England, without a practical doctrine on this important point. The real situation of this question in America, and the conflict which appears to exist between the judicial and executive doctrine on the subject, are too important to be dealt with now, and I must reserve the fuller discussion of them for another occasion.

But, then, it will be said, to what purpose attack the existing doctrine, unless you are prepared to indicate the principles on which it should be reformed? I entirely admit the justice of the challenge. Nor would I have stated the objections which may be urged against the present state of things, unless I thought I saw my way clearly to a better system. No one will dissent from the observation of Chancellor Kent, "that the doctrine of final and absolute expatriation requires to be defined with precision, and to be subjected to certain established limitations, before it can be admitted into our jurisprudence as a safe and practical principle, or laid down broadly as a wise and salutary rule of national policy." This is not the place or the occasion to discuss in detail those requisite definitions and limitations. But it will not be difficult to point out the general principles by means of which the whole question might be placed on a solid and practical basis. I would found the doctrine of British citizenship, not on the feudal dogma, "*Nemo potest exuere patriam*," but on the enlightened maxim of the Roman law, "*Ne quis in civitate maneat invitus.*" For why should we confer the privileges and impose the obligations of citizenship on those who do not desire the one or deserve the other? Is it not more consistent with the dignity of our empire as well as with the safety of our policy that we should regard, and cause others to regard, our citizenship as a privilege to be sought rather than a burden to be evaded? Nor have we far to seek for an example which may serve, if not as a precise model, at least as a most instructive lesson. In the Code Napoleon, that masterly system drawn from the fountains of the Roman law, and accommodated with rare sagacity to the conditions of modern civilization, we shall find reduced to practice a theory of citizenship exactly the reverse, and, I venture to think, one far to be preferred to our own.

In the first place, the French doctrine avoids the preposterous consequences of making citizenship dependent on the mere local accident of birth. A stranger born of foreign parents in France is not manufactured by the act of the law into an involuntary French citizen. He enjoys the capacity of citizenship if he elects on his majority to become a Frenchman, and testifies his intention to make his home in France. Thus two things must concur in the case of a foreigner born in France—a deliberate option and a permanent domicile.

The difference is not less marked when we consider the rules according to which French citizenship is forfeited. The following articles of the Code Civil sufficiently explain themselves:

"ART. 17. La qualité de Français se perdra, 1°, par la naturalisation acquise en pays étranger; 2°, par l'acceptation non-autorisée de fonctions publiques conférées par un gouvernement étranger; 3°, enfin, par tout établissement fait en pays étranger sans esprit de retour.

"ART. 18. Le Français qui aura perdu sa qualité de Français pourra toujours la recouvrir en rentrant en France, avec autorisation, et en déclarant qu'il veut s'y fixer et qu'il renonce à toute distinction contraire à la loi Français.

"ART. 21. Le Français qui sans autorisation prendrait du service chez l'étranger ou s'affilierait à une corporation militaire étrangère perdra sa qualité de Français."

The principle on which these rules are founded is simple, and, I think, sound. So far from attempting to enforce an involuntary citizenship, they declare that all acts which indicate a deliberate intention to withdraw from the state operate on the part of the subject in forfeiture of his privileges as a citizen. France disclaims all part in a citizen who withdraws himself from her political communion in favor of a foreign state. It is not the subject who casts off France, but France who casts off the subject. Here again it will be observed that deliberate domicile, and not accidental birth, is made the governing test of citizenship. France confers the great privilege of her citizenship upon those who dwell within her borders, if not in body at least in spirit; she does not seek to detain the reluctant fugitive in involuntary fetters. She does not desire to number among her sons men who, in a sense very different from that of Goldsmith—

> "Still to their *country* turn with ceaseless pain,
> And drag at each remove a lengthening chain."

This letter is already so long that I cannot venture to enlarge on details. I believe the time is arrived when this question must be dealt with in a large and enlightened spirit. I am sure that the whole matter must be reconsidered, and that when reconsidered it will be found that the whole system must be reconstructed. That reconstruction might be founded upon a few very simple principles, such as the following:

I. With respect to the acquisition of citizenship:

1. British citizenship should belong, as of course, only to persons born of British parents domiciled in the British dominions.

2. The children born to foreigners in the British dominions should, as in France, have the *capacity* to take up their citizenship.

3. As to descendants born abroad of English parents who are domiciled abroad, an election should be given to become citizens, to be testified by certain prescribed formalities.

II. With respect to *expatriation*:

1. Every British subject should be allowed to withdraw himself from the state by some formal act disclaiming his citizenship.

2. Certain acts should be defined as constituting in themselves a forfeiture of friendship, whether so disclaimed or not.

It would be necessary, of course, to make provision against a fraudulent expatriation made for the express purpose of injuring the native state, and also for the *status* of the expatriated citizen in case he returned to his former home. It must be quite obvious to all reflecting persons that, unless some great mischief is to happen, a definite understanding must be come to between the governments of England and America as to the political *status* of that vast population of English origin and of American domicile which is peopling the further shores of the Atlantic. The doctrine of the English and the American common law is wholly inadequate to solve the question. The present solution of things is irrational and intolerable. While the British law asserts the doctrine of indissoluble allegiance, the American Constitution already demands of the emigrant in the naturalization oath an abjuration of all foreign allegiance. The doctrine of a permanent double allegiance is legal fiction and a political absurdity. It is fraught with every sort of embarrassment to the governments and every species of injustice to subjects. To attempt to enforce against America the doctrine of the Norman lawyers would be a greater blunder than any committed by Lord North.

Do not let us be deterred from dealing with this matter by any notion that it would embarrass the action of the government with respect to the unlawful enterprises of the Anglo-American Fenians. The effect would be exactly the reverse. The more clearly such men are recognized as American citizens the more directly responsible the American government would be for their conduct abroad; and I need not say that for their conduct in this country foreigners are as directly amenable to our laws as native subjects. As to the question of the jury *de mediatate linguæ*, the practice is of doubtful expediency; it is the creation of a statute, and might be abolished by the same authority which created it.

Lord Stanley has shown himself not unwilling to approach great questions in a spirit of courageous conciliation. Depend upon it no English minister ever had a greater opportunity of removing an inexhaustible source of misunderstanding and of danger than is offered in the settlement of this question. We have an immense advantage in the discussion of this matter with America in the fact that not only these people but their law has a common origin with our own. On this subject they have little room to

reproach us with a doctrine which so nearly approximates to theirs. I believe that a mixed commission of English and American lawyers and statesmen would without difficulty arrive at a common basis which would place this paramount subject on a satisfactory footing. If modern civilization means anything at all, it surely means that nations should be enabled in free and friendly debate to adjust the spirit of their laws to the necessities of modern society and the accommodation of conflicting claims. In laying down by mutual agreements the principles of an international code of citizenship, the justice of which both parties would recognize, we should give to the government of both countries a firm and definite basis for their policy, to the subjects of both nations a new guarantee of their liberties, and to the world a fresh security for peace.

I am, sir, your obedient servant,

HISTORICUS.

TEMPLE, *December* 7.

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[Editorial.]

A short paragraph in the summary of President Johnson's message is the text of a suggestive letter on personal allegiance, which appears in another part of our impression. According to the telegraphic report, the President "urges Congress to declare that the naturalization of a foreigner as a citizen of the United States absolves the recipient from allegiance to the sovereign of his native country." We are unwilling to believe that Mr. Johnson has recommended Congress to assume a function which is manifestly beyond its competence, or that Congress will commit itself to a declaration in this naked form. It is within the power of any national legislature to make laws for the naturalization of foreigners. The legislature of the United States is authorized to do so by an express clause of the federal Constitution, in pursuance of which it already requires aliens claiming American citizenship to declare on oath that such is their intention, and to renounce forever all foreign allegiance. So far the action of Congress has been perfectly constitutional, and consistent with the axioms of public law. It is for the United States courts, and for them alone, to decide what effect such a renunciation may have within United States territory. Their jurisdiction, however, can extend no further. It is for the courts of England, France, or Prussia, as the case may be, and for them alone, to decide whether an English, French, or Prussian subject can so divest himself of his nationality by the process of naturalization in America as to place him in the position of a foreigner on his return to his native country. This rule, founded alike on reason and necessity, is so well understood, and has been so emphatically asserted by American jurists, that it will hardly be questioned by Mr. Johnson or Congress. The object of the President being, as we presume, to revise those doctrines common to the jurisprudence of both countries which have hitherto governed the rights and liabilities of naturalized citizens, we may expect that our own government will be invited to join with that of the United States in establishing a new basis for legislation on the subject.

The logical consequences of these ancient doctrines are well illustrated by our correspondent Historicus. The maxims of common law—*nemo potest exure patriam—jus originis nemo mutare potest—qui abjurat regnum amittit regnum, sed non regem*—may be traced back to an essentially feudal conception of personal allegiance. As interpreted and extended by statutes, they go the length of including among "natural-born subjects of the Crown, to all intents and purposes whatsoever," not only all persons born in the United Kingdom, but even the children and grandchildren of such persons, though themselves born abroad. Assuming that allegiance "for all purposes" must involve all the obligations of allegiance, it would doubtless follow that a Frenchman whose grandfather might have been accidentally born in England would be liable to a prosecution for treason if taken in arms against England. That a natural-born subject cannot bear arms against his parent state in the event of war has, indeed, been positively laid down in a famous case, and what appears to be a monstrous, though inevitable, result of statutes passed in the last century, was actually affirmed by Lord Bacon in the reign of James I. It is, however, much easier to reduce *ad absurdum* this principle of indefeasible allegiance than to show that "the principle of universal law is exactly the reverse." Even municipal law must always be construed with strict reference to the subject of decision, and if there be such a thing as a proposition of universal law, it can only be stated with extreme qualification. Cicero may disclaim, on behalf of the Roman commonwealth, any right to retain the unwilling allegiance of subjects, and passages may be quoted to the same effect from modern publicists. We cannot, however, conclude that a Roman citizen who should have cast off the *civitas* and taken service under some enemy of Rome, would have been held exempt by Roman judges from the penalties of treason; nor are we aware that any great publicist has maintained (to borrow Wheaton's language) that "*a natural-born subject of one country can throw off his primitive allegiance so as to cease to be responsible for criminal acts against*

*his native country.*" It so happens that when Mr. Wheaton himself was resident at Berlin, he refused the protection of his government to a Prussian naturalized in America, who had been required to perform military duty in his native country. "Having returned," he said, "to the country of your birth, your native domicile and national character revert, (so long as you remain in the Prussian domains,) and you are bound in all respects to obey the laws exactly as if you had never emigrated." It may be said, of course, that he was bound to act according to American law, which here coincides with our own; but the fact of this coincidence having been preserved is in itself an evidence of some value. A nation created and recruited by emigration would hardly have acquiesced so long and so patiently in the English theory of allegiance, had an alternative theory of higher authority and far more favorable to American interests been known to the great expositors of her law. The United States protested, indeed, and with good reason, against the vexatious right of visitation and search claimed by this country, for there their territorial sovereignty was impugned. But it remains to be shown that on that or any other occasion they have insisted, in diplomatic negotiation, on the absolute defeasibility of citizenship.

The important question, however, is one of policy rather than of law, and we freely admit that, on grounds of policy, not to say of common sense, the argument for revision is irresistible. There are certainly hundreds of thousands, and probably millions, of citizens of the United States whom our law regards as British subjects to all intents and purposes whatsoever. No statesman can justify such an anomaly, which, it must be remembered, has two aspects. If all these Irish emigrants owe full allegiance to her Majesty, it may also be doubted, at least, whether they are not entitled to our protection against conscription; yet it would have been utterly impossible for our minister at Washington to grant them such protection during the late American war. In short, our present theory is quite untenable when any practicable strain comes to be put upon it, and, as Historicus justly contends, its maintenance may at any moment become the source of very serious embarrassment. We see, then, no good reason why the British government should decline any friendly overtures that may be made by the United States with a view to its amendment. Whether we can adopt the principle *ne quis in civitate maneat invitus* without some reservation is a matter that will require to be considered. The act of expatriation should at all events be deliberate and well attested, and our correspondent himself contemplates "provision against a fraudulent expatriation made for the express purpose of injuring the native state." For offenses committed within the United Kingdom, foreigners are already amenable to British jurisdiction by virtue of what lawyers call a temporary allegiance. They can be prosecuted, therefore, under the treason-felony act for crimes committed in Ireland, without reference to their nationality, and this is, after all, the chief safeguard against Fenian designs. For security against raids organized in America we must rely mainly on the good faith of the United States government, and this makes it the more expedient that we should meet them on this point in a spirit of conciliation.

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*Mr. Adams to Mr. Seward.*

No. 1495.] LEGATION OF THE UNITED STATES,
*London, December* 14, 1867.

SIR: In accordance with the directions contained in your dispatch No. 2105, I have written to Mr. West to apply for an official report of Captain Warren's trial. By a letter received this morning from him, I learn that he has already received and forwarded an official copy of the indictment.

The solicitor of Colonel Nagle has applied to know whether the government of the United States will assume the expense of his defense on his trial at Sligo. He proposes to bring down what he calls *a special bar* from Dublin, which will naturally create very heavy charges. As there would be time to hear from the department, and I have great reluctance to assume the responsibility of large outlay of money for the government, I wrote to him that I would obtain your instructions. The assizes will probably be held in February.

I transmit herewith a copy of the London Times of this morning, containing a report of an attempt, made by certain parties supposed to be connected with the Fenian organization, to blow up the Clerkenwell

prison wall, for the purpose of effecting the liberation of Colonels Burke and Casey. The former is the person about whom I wrote in my dispatch No. 1490, of the 7th instant. The object was not attained, but the incidental consequences to innocent persons have been fearful.

It is much to be apprehended that these repeated attempts may rouse a state of feeling in the English population which will not be satisfied with the slower processes of justice, and may in its turn wreak its vengence upon wholly innocent parties. The government, fearful of such consequences in the great towns, has already prohibited all further demonstrations of the kind that took place in London and Dublin on the execution of the Manchester prisoners. It is tolerably clear that no such manifestation could be repeated here without danger to the public peace. The Orange feeling in the north of Ireland is also becoming very much exasperated.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, December 14, 1867.]

A crime of unexampled atrocity has been committed in the midst of London. We are not a sanguinary people, and acts of wholesale murder are rare in our annals. Till yesterday we could not have believed that there lived among us men capable of planning such a deed as has just spread destruction over a whole neighborhood. The infernal machines of 1800 and 1835 have been rivaled by the diabolical device of the Fenian conspirators. In order, as it is supposed, to rescue two of their accomplices who had been remanded by a magistrate and had been placed in the house of detention at Clerkenwell, it has entered into the minds of the rebels who are planning the overthrow of the Queen's government in Ireland to destroy the wall of the prison at the moment the prisoners were taking exercise, and to carry them off through the gap which the explosion should create. So far as regards the effect of the powder, the experiment has been horribly successful. A vast breach has been made in the outer wall; not less than 60 feet have been blown away, and the precincts of the prison are incumbered with ruins. Never was the tremendous power of gunpowder more clearly shown. The gate of Ghuznee was blown open by a bag of powder hung to it by a nail; a barrel wheeled on a truck and simply placed on the pavement beside the prison wall has sufficed to crush and shatter everything that was exposed to the force of its explosion. All that is known at present is that yesterday, at about a quarter before four in the afternoon, some persons were seen to wheel a barrel into the thoroughfare called Corporation lane, one side of which for some distance is formed by the prison wall. According to one account a squib was stuck into the barrel, one of the men lighted it, and then the conspirators ran quickly up a court which leads out of the lane. In another moment the explosion followed. The wall heaved and shook, and then fell inwards with a single crash. Had Burke or Casey been taking exercise in the yard at the time, he might have had little cause to thank those who used so tremendous an instrument of rescue. But at this time the prisoners were within the prison itself, and as regards them the exploit of the conspirators has been without effect for good or evil. Not so with the unhappy inhabitants of the neighboring houses. Corporation lane is a commonplace street of small tenements, occupied by working people. The houses are neither new nor substantial; but if it were otherwise they could hardly have resisted the violence of the shock. As it is, the devastation has been beyond belief. The whole row opposite to the gap in the prison wall has been wrecked. The house immediately opposite was so completely crushed that there was no alternative but to pull down what remained of the tottering walls, and it is now only a heap of rubbish. On each side, the houses stand windowless and doorless, the cracked brickwork everywhere threatening the bystanders with a speedy collapse. A long way up the neighboring lanes and courts the glass is broken in the windows, the chimneys have been shaken down, the ceilings have been destroyed. In one case a wall seems to have been not only cracked, but forced out of the perpendicular by the violence of the shock. The perpetrators of this outrage did not miscalculate the potency of the weapon they used. This new gunpowder treason shows what power for mischief is in the hands of any determined ruffians whose fierce passions and seared consciences make them regardless of human life.

If the miscreants who have done this deed are capable of remorse, they may well be

overcome by the thoughts of their day's work. Burke and Casey are still safe in confinement. Nothing that their friends can do is now likely to deliver them from the necessity of answering for their actions at the bar of justice. The conspirators have to no purpose committed a crime which will bring down on themselves and their scheme the execration of the world. If one of them escapes, all that he will have to look back upon is the slaughter of a number of innocent people, the burning and mangling of women and helpless infants, the destruction of poor men's homes and poor men's property. Some 40 persons are dead or wounded. We know not what number will have perished by the time these lines are read; but four or five were said to be dead last night, and others were in a most precarious state. It is, indeed, heart-rending to hear of little children four and five years old torn and mangled, to find youth and age involved in a common destruction. It is terrible to think that there are, no doubt, still among us others planning outrages equally dastardly and deadly, and that any day may bring some disastrous news. Our first thoughts, however, must be given to those who have been the victims of this plot. The chief sufferers are in the hospitals, and of course will receive all the care that their cases require. But the destruction of property has been large, and it is probable that several families have not only to mourn the loss or disablement of a member, but will be plunged into deep distress. They have a claim on the public, for they may be said to have suffered in a public cause. They are the victims of a conspiracy which, under the names of patriotism and liberty, has declared war on the government and society of these islands. In the Irish outbreak of last March, in the attack on the prison van at Manchester, in this traitorous enterprise at Clerkenwell, the Fenians have shown that they shrink not from bloodshed, even for a most inadequate end. Their object is now apparently to create a terror throughout the United Kingdom, and such is their unscrupulous ferocity that with a large class of the community they may so far succeed. If the country, however, can do nothing else, it can take care that those who actually suffer at the hands of these public enemies shall not want care in their sufferings and compensation for their losses.

As to the Fenian conspiracy itself, it must be evident that the time is past for clemency and forbearance. With traitors and assassins such as these there can be but one course. We desire to say nothing which may aggravate the bitterness of English feeling, or increase the indignation which will burst forth to-day in every part of the land. We feel that the Fenians have filled to the full the cup of wrath, and that in dealing with them public opinion will need rather to be restrained than instigated. We would impress on our readers the duty of looking at these events with as much calmness as is consistent with human nature, of remembering that not every Irishman—nay, not even every processionist and every listener to seditious speeches—is a Fenian. The conspiracy to which these Clerkenwell assassins belong is probably directed by a few, and its active co-operators may be only some thousands in the whole kingdom. This leaven might, indeed, if left to itself, soon leaven the whole lump; and it is therefore necessary to remove it at once. But, while doing strict and stern justice on the guilty, we may separate them in our minds from the excitable and deluded. Ireland has suffered much at the hands of her self-constituted representatives, and never more than when she is made to appear before the world as the mother of assassins. It may be that this great crime will cure many who have taken the infection of Fenianism. At least let England show that, whatever may have to be done, she will allow neither fear nor anger to sway the balance of justice.

### ATROCIOUS FENIAN OUTRAGE.

Yesterday afternoon an attempt was made to obtain the release of the Fenian prisoners Burke and Casey by blowing up with gunpowder the outer wall of the house of detention at Clerkenwell, in which they are at present confined while under remand, and it succeeded so far as to effect an enormous breach in the wall, about 60 feet wide at the top and lessening towards the ground. Unhappily, that was not the whole result. Upwards of 40 innocent people, men, women, and children of all ages, some of whom happened to be passing at the time, were injured more or less severely by this modern gunpowder plot, of whom one was killed on the spot, two have since died, and a fourth is not expected to survive the night. Thirty-six of the sufferers were removed to St. Bartholomew's Hospital, where three died in the course of the evening, and six to the Royal Free Hospital in Gray's-inn road. Three and four of the wounded were members of the same family, some were mere infants, and the husband of a woman who has since died of injuries she sustained lies in St. Bartholomew's, shockingly bruised and prostrated. Others are missing. The living, on being taken to the hospital, received the prompt and humane attentions of Mr. Holden, one of the senior surgeons, Mr. Edward McClean, the house surgeon, and, indeed, of the whole medical staff. The treasurer (Mr. Foster White) was also conspicuous for the aid he rendered in promoting the comfort of the poor sufferers.

The explosion, which sounded like a discharge of artillery, occurred at exactly a quarter to 4 o'clock in the afternoon, when there is still daylight in even these short days,

and was heard for miles round. In the immediate neighborhood it produced the greatest consternation, for it blew down houses and shattered the windows of others in all directions. The windows of the prison itself, of coarse glass more than a quarter of an inch thick, were to a large extent broken, and the side of the building immediately facing the outer wall in which the breach was made, and about 150 feet from it, bears the marks of the bricks which were hurled against it by the explosion. The wall surrounding the prison is about 25 feet high, 2 feet 3 inches thick at the bottom, and about 14 inches thick at the top.

The scene of the explosion is Corporation Row, which runs parallel with the prison wall on its northern side, and consisted of houses three stories high, some of them let out in tenements, and others used for various manufacturing purposes. A very circumstantial account of the transaction is given by an intelligent little boy named John Abbott, 13 years of age, who happened to be an eye-witness, and who now lies at St. Bartholomew's Hospital, but happily not much injured. The boy lived with his parents at 5 Corporation lane, and we cannot, perhaps, do better than give his statement in his own words:

About a quarter to 4 o'clock, he says, he was standing at Mr. Young's door, No. 5, when he saw a large barrel close to the wall of the prison, and a man leave the barrel and cross the road. Shortly afterwards the man returned with a long squib in each hand. One of these he gave to some boys who were playing in the street, and the other he thrust into the barrel. One of the boys was smoking, and he handed the man a light, which the man applied to the squib. The man staid a short time, until he saw the squib begin to burn, and then he ran away. A policeman ran after him, and when the policeman arrived opposite No. 5 "the thing went off." The boy saw no more after that, as he himself was covered with bricks and mortar. The man, he says, was dressed something like a gentleman. He had on a brown overcoat and black hat, and had light hair and whiskers. He should know him again if he saw him. There was a white cloth over the barrel, which was black, and when the man returned with the squib he partly uncovered the barrel, but did not wholly remove the cloth. There were several men and women in the street at the time, and children playing. Three little boys were standing near the barrel all the time. Some of the people ran after the man who lighted the squib.

Mrs. Holder, a widow, living at 4 Corporation lane, and now in St. Bartholomew's, says, about half past 3 a man knocked at her door, and, upon her son answering, the man asked to be allowed to go to the top story of the house to be enabled to see his cousin and speak to him when exercising in the yard of the house of detention. His application was refused, and he went away. About 10 minutes afterwards the explosion occurred. It is understood that her son will be able to identify the man.

Two men and a woman are now in custody charged with being implicated in the crime. One of the men gives the name of Timothy Desmond, and describes himself as 46 years of age, and a tailor by trade; the other, Jeremiah Allen, is 36, and a bootmaker. The woman, whose name is Ann Justice, is about 30 years of age. Late last night she made a determined attempt to strangle herself in a cell in which she was confined in the house of detention, but it was frustrated. She has been in the frequent habit of visiting the prisoner Casey while he has been confined there.

It is understood that on Thursday evening Mr. Henry Pownall, the chairman of the county magistrates, in consequence of information he had received paid a visit to the prison, and directed the governor, Captain Codd, not to exercise the prisoners in the ordinary way yesterday either as to time or place. The wall which has been blown down inclosed a large open space in which the prisoners were accustomed to take exercise. The governor, therefore, had them exercised between 9 and 10 yesterday morning, instead of the usual time, which was between 3 and half-past 4 in the afternoon, and to this precaution it is probably owing that the diabolical attempt of yesterday was unsuccessful. The governor is also understood to have put himself in communication with the public authorities, and they had undertaken to keep a large body of the force outside the walls, perambulating the immediate neighborhood of the prison. That, we believe, was not a special precaution, for it is said to have been observed during the time the man Groves was under remand on suspicion of being concerned in the murder of the bandsman. Six warders from the house of correction were sent to the prison on Thursday to act as a night guard, but the governor, not thinking they were necessary, dispensed with their services, and called in the aid of six or eight of his own warders as an additional force during the night. Shortly before the explosion the prisoner Burke appeared very excited, and went often to the window of his cell. Three men and a woman are said to have been concerned in the explosion. A policeman, who was on special duty in plain clothes at the time, rushed forward and tried to seize one of them, but was stunned for the moment by the force of the explosion and lost his feet. On rising he secured one of the men, and the woman was apprehended shortly afterwards. One of the three men who made his escape is supposed to have been the one who fired the train; but all these are matters to be elicited and explained in evidence.

In the course of yesterday a policeman on duty outside the prison had his suspicions so strongly aroused by seeing the woman Justice and a man frequently conversing together, that he communicated with one of the prison authorities, who in consequence made arrangements for giving an alarm if it should become necessary. During the day a warder on duty inside had his attention directed to a man at a window in the upper part of a house in Woodbridge street overlooking the prison yard. He went to bring another warder, and on their return the man had vanished, but was shortly afterwards seen talking to the woman Justice near the entrance to the prison, and to the man who had been seen loitering with her. The latter man wore a white apron, and had the appearance of a shoemaker; and that description applies exactly to one of the two now in custody. Later in the day the warder had his attention called to the same window in the opposite house in Woodbridge street, overlooking the prison yard, and there he saw a woman leaning out, and several men inside the room. He distinctly counted five men, but there seemed to him to be more, and they were all looking anxiously in the direction of the place where the explosion occurred almost immediately afterwards.

All the houses in Corporation lane overlooking the prison yard are more or less damaged by the concussion, and two or three of them so seriously in front of the part of the wall where the breach was made that members of the fire brigade, under the direction of Captain Shaw, were pulling them down last night in anticipation of their falling by their own weight. About 500 of the metropolitan police were on duty keeping off the crowd and preserving order, and 100 of the Fusileer Guards, under the command of Colonel Moncrief, Captain Gosling, Lieutenant Moray, and Lieutenant Inigo Jones, were posted as a guard inside the prison throughout the night. Many of the county magistrates were also in attendance, including Mr. Pownall the chairman; Lord Ranelagh, Mr. Northall Laurie, Mr. Henry White, Mr. Bodkin, Mr. Fish Pownall, and Mr. Frederick Pownall, the county surveyor. The police on duty were under the command of Captain Labalmondiere, from their headquarters in Scotland yard, Throughout the whole evening great excitement prevailed in the neighborhood. The two men and the woman who have been apprehended were, until late last night, kept in the house of detention, as being the nearest to the place where they were arrested, but not being in the legal custody of the governor preparations were being made for their removal to another prison.

The occasion served to bring into strong light the incalculable value of such an institution as St. Bartholomew's Hospital on a great public calamity. The poor sufferers, many of them rendered homeless for the time, were conveyed thither with as little delay as possible, and many anxious relatives crowded its doors during the evening to hear some tidings respecting them. According to Mr. Holden, the senior surgeon on duty, the effect of the concussion in most cases had been to produce a severe shock to the nervous system and great prostration. The chief injuries were about the head, including severe wounds, with fractured bones of the face in several instances. The hands of a boy about 11 years old were so frightfully wounded that all his fingers except two, and both his thumbs, had to be removed. A woman, who had sustained a severe fracture, was to all appearance on the point of death on her admission, but she rallied a little afterwards, and later in the evening her condition inspired hope. A girl named Anne Cross, eight years old, had her left knee fearfully lacerated. She was on her way home with a jug of milk for which her mother had sent her when she was injured by the explosion.

In the course of the evening Mr. Foster White, the treasurer of St. Bartholomew's, forwarded a telegram to the Prince of Wales, the president of the hospital, informing his royal highness of the preparations which had been made there for the reception and treatment of the sufferers.

The dead at St. Bartholomew's hospital are William Clutton, a woman named Hutchinson, (whose husband, 38, is in a very precarious state,) and a female child named Abbott, about eight years old. Her mother, Maria Abbott, is also a patient.

The following are the in-patients: John Abbott, 13, No. 5 Corporation lane; two children, Charles and Martha Perry, 4 and 5 years respectively; Caleb Beckett, 28; John Harvey, 48; William Abbott, 11; William Kitchener, 55; John Walker and Thomas Wheeler; Thomas Hutchinson, 38; Ann Cross, 8; Maria Giles, 39; Margaret Mosely; Sarah Hartley, 41; Thomas Hartley, 8; and two other boys name Hartley, all of the same family; Harriet Thompson; a baby, (unclaimed;) Elizabeth Williams; Elizabeth Holder, 56; Elizabeth Hodgkinson, Maria Abbott, and a child not known; Elizabeth Thompson, Mary Ann Chittlebird, Anna Maria Abbott, another Elizabeth Thompson, 48; Mary Ann Miles, (old;) Martha Evans, 67; Ann Bennett, 67; and Mary Ann Young.

At the Free Hospital, Gray's-inn lane, are Anna Maria Thompson, 4; Anna Roberts, 30; Arthur Abbott, 4, and Minnie Abbott, 4; Humphrey Evans, 66; and a boy two years and a half old, calling himself Tommy. One of the six was not expected to live.

*Mr. Seward to Mr. Adams.*

No. 2108.] DEPARTMENT OF STATE,
*Washington, December* 14, 1867.

SIR: Your dispatch of the 29th of November, No. 1485, has been received. I thank you for your attention in furnishing me copies of the British statutes on treason-felony. When I shall have received expected copies of the indictments of citizens of the United States who have been tried and are to be tried under these statutes, I shall have occasion to give you at large the President's views concerning the conflict which exists between the United States and Great Britain in regard to the just rights of naturalized citizens under prosecution for offenses committed in Great Britain.

I have read the letter which Colonel Nagle addressed to you on the 22d November, and which you have transmitted at his request. I have been advised by the consul at Dublin that Colonel Nagle, subsequently to writing that letter, applied to the court, in the customary form of law, for an immediate trial or for his discharge from imprisonment; that the court denied the application, and that the trial stands postponed, to take place at Sligo in March next. You will take care that he be defended by proper counsel, at the expense of the United States.

Her Majesty's government determines for itself upon the policy of rigorous criminal prosecution in these frequent cases, which I have had more than one occasion to say are popularly regarded in the United States as incidents of popular movements for political reform. It would be unbecoming on my part to speculate upon the effects which this policy secures in Great Britain. Charged, however, as I am with the duty of extending legal protection under treaties and the law of nations to the citizens of the United States sojourning abroad, and with the duty also of preserving good and favorable relations between the United States and foreign countries, I have constantly thought it right to let her Majesty's government know, in every proper way, that the practice of exceptionable severity in these cases produces in the United States consequences very unfavorable to the interests of Great Britain. It was with a very clear foresight of these results that, under the President's direction, I so earnestly and so frequently urged the discharge of Colonels Nagle and Warren before their prosecution, upon a full understanding with the lamented Sir Frederick Bruce of his approval and concurrence in that proceeding. Similar motives induced the President to recommend clemency to the United States citizens recently convicted at Manchester. If I may judge from the tone of popular and legislative sentiments in the United States, the policy of these recommendations has been fully vindicated. It is my deliberate conviction that, so far as our own country is concerned, it would be an act of wisdom on the part of the British government to dismiss its prosecution against Colonel Nagle, and to discharge Colonel Warren and the prisoner Costello from penal imprisonment.

You will please communicate the substance of this dispatch to Lord Stanley, and give him a copy thereof if he shall request it.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

*Mr. Adams to Mr. Seward.*

No. 1499.] LEGATION OF THE UNITED STATES,
*London, December* 21, 1867.

SIR: It will doubtless be remembered by you that at the commencement of the present administration I solicited, wholly for private reasons, to be relieved from longer service at this post. It being, however, thought at that time by the President that my continuance here for a further period was advisable on public grounds, I very cheerfully acquiesced in what could not but be construed by me to be as flattering as it was an imperative necessity.

Nearly three years have since passed away, and matters have become so far simplified in the interval that I am led to the hope that the public considerations which then prevailed to prompt my stay have, in a good measure, lost their force, whilst, on the other hand, the private reasons weighing upon myself have much increased in strength. I am, therefore, encouraged once more to ask of you the favor on my behalf most respectfully to tender to the President this resignation of my place, to take effect, if consistent with his convenience, on or about the first of April next.

For the uniform and steady confidence and support accorded to me during the term of my mission—among the longest in duration of those heretofore sent to this kingdom—I shall ever entertain the most grateful sentiments, as well in regard to the present as to the late President. To yourself, who have been more directly their organ of communication with me, I shall equally retain the strongest sense of my obligations for the unvarying friendliness of spirit in which my efforts to execute the duties imposed upon me have been ever both received and accepted.

I have the honor, to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1500.] LEGATION OF THE UNITED STATES,
*London, December* 21, 1867.

SIR: In connection with your dispatch No. 2105, of the 2d instant, I have the honor to report the receipt from Mr. West of an official copy of the report of Colonel Warren's trial, obtained by him, under my directions, from the authorities in Ireland.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Note by the Department of State.*

The following report having been published in pamphlet form, and it being advisable for future reference to preserve intact the paging of the same, the words "Page of report No. 1," "Page of report No. 2," &c.,

will be understood to correspond with pages 1, 2, &c., of the original report:

REPORT OF THE TRIAL OF JOHN WARREN FOR TREASON-FELONY, AT THE COUNTY DUBLIN COMMISSION, HELD AT THE COURT-HOUSE, GREEN STREET, DUBLIN, COMMENCING THE 30TH OCTOBER, 1867.—REPORTED FOR THE CROWN BY WILLIAM G. CHAMNEY, ESQ., BARRISTER-AT-LAW.

*Presiding judges.*—The right honorable the Lord Chief Baron Pigot; the right honorable Mr. Justice Keogh.

*Sheriffs.*—High sheriff, Malachi Strong Hussey, esq., J. P.; sub-sheriff, William Ormsby, esq.

*Counsel for the Crown.*—The right honorable Robert Richard Warren, M. P., her Majesty's attorney general; Michael Harrison, esq., her Majesty's solicitor general; Charles Robert Barry, esq., M. P., sergeant-at-law; Robert Longfield, esq., Q. C., law adviser; James Murphy, esq., Q. C.; Edward Beytagh, esq.

*Crown solicitor.*—Matthew Anderson, esq.

*Clerk of the Crown.*—Edward Geale, esq.

*Counsel for the prisoner.**—Denis Caulfield Heron, esq., Q. C.; Richard Dowse, esq., Q. C.; Constantine Molloy, esq.

*Attorney for the prisoner.*—John Talbot Scallan, esq.

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OCTOBER 31, 1867.—Witnesses: Janiel J. Buckley examined; recalled and examined by the chief baron; Michael Gallagher, the Teelan pilot, Killybegs, examined; examined by the chief baron; recalled; James Nolan, otherwise Daniel Coffey, a prisoner, examined; John Haughey, Killybegs, examined; Daniel Jones, Sligo, examined; examined by the chief baron; Joseph Clarke, coast guard, Streeda, Sligo, examined; examined by the chief baron; recalled; Bernard Burke, coast guard, Streeda, examined; recalled; Patrick Browne, Dungarvan fisherman, examined; Daniel Collins, Dungarvan fisherman, examined; George Jones, coast guard, Helvick, examined; Andrew Roche, of Ring, Dungarvan, examined; examined by the chief baron; Constable James Norris, Youghal, examined.

NOVEMBER 1, 1867.—Witnesses: Head Constable James Patten, Killybegs, examined; Sub-Constable Thomas Irwin, Dungarvan; John Joseph Corydon, informer, examined; cross-examined by the prisoner; Sergeant Francis Sheridan, Dublin police, examined—The Crown case closed—The prisoner's statement—The solicitor-general's reply—The chief baron's charge—Verdict.

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COUNTY DUBLIN COMMISSION.—OCTOBER, 1867.

*Queen* vs. *John Warren.*

WEDNESDAY, *October* 30.

The lord chief baron and Mr. Justice Keogh took their seats on the bench shortly after 10 o'clock a. m., in the court-house, Green street.

*Prosecution for treason-felony.*

JOHN WARREN was placed at the bar.

Mr. HERON. May it please your lordships, I appear here on behalf of the prisoners W. J. Nagle and John Warren only; and on their behalf my respectful application to

*Counsel and attorney for the prisoner withdrew during the progress of the case.

the court would be that those prisoners be both now arraigned. The reason is that an application will be made on behalf of Nagle, who is an American citizen; of course you can see at once what that application will be. He is anxious that his trial should not be delayed beyond this commission.

The ATTORNEY GENERAL. I do not see how the purposes of justice, as regards Warren, can be affected one way or the other by calling on Nagle to plead now, and I must, therefore, decline to accede to the application.

Mr. HERON. I don't do it for the purpose of pleading. My request is that Nagle may be now arraigned, in order that an application may be made to your lordships with reference to his trial during the present commission.

The ATTORNEY GENERAL. It will be quite time enough to do that when he is called upon to plead.

Mr. HERON. I really cannot see why this should be refused. Nagle would have been arraigned on Saturday, only I informed your lordships that a question would arise on the arraignment. I thought they were to be arraigned together.

The ATTORNEY GENERAL. I never said that the two prisoners would be arraigned together. When the present prisoner, Warren, has pleaded, I must be allowed to take my own course as to whom I will arraign next.

The CHIEF BARON. If you have any application to make on the part of any prisoner against whom a bill of indictment has been found, there is nothing to prevent your making it.

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Mr. HERON. My application on behalf of Nagle cannot be legally made until he has pleaded, and that is the reason I ask him to be arraigned. If he is arraigned now, he will plead "not guilty" without any delay.

The CHIEF BARON. Do you see any reason, Mr. Attorney General, for not arraigning him now?

The ATTORNEY GENERAL. I see no objection to it, my lord, except that it will delay the proceedings.

The CHIEF BARON. It cannot affect the proceeding against Warren; for, supposing we arraign Nagle now, of course we are not called upon to proceed with his trial.

The ATTORNEY GENERAL. I am aware of that, my lord; but putting forward Nagle now would cause considerable delay to the present trial.

The CHIEF BARON. If questions are likely to arise on the arraignment of Nagle that would involve delay, that would be a good reason for not arraigning him now; but if not, I see no reason why we should not accede to the application.

The ATTORNEY GENERAL. My lord, I respectfully say we are not bound, on behalf of the Crown, to put forward any prisoner except the prisoner with whose trial we, acting for the Crown, think it desirable to proceed.

The CHIEF BARON. I think you are not called upon to proceed with the trial of any prisoner, Mr. Attorney, except the prisoner whom you deem it desirable should be tried.

The ATTORNEY GENERAL. Nor to put forward any prisoner, unless we think it desirable on behalf of the Crown to do so.

The CHIEF BARON. I think there should be no objection to arraigning the other prisoner now.

The ATTORNEY GENERAL. If your lordships rule that you have the right so to direct, of course I must submit; but on behalf of the Crown I respectfully object to your doing so.

The CHIEF BARON. We will proceed with the arraignment of the prisoner now before us.

Mr. HERON. Then, my lords, on behalf of that prisoner I respectfully ask to see the indictment, in order that I may see the list of witnesses indorsed on the back of it, before he pleads.

The ATTORNEY GENERAL. The prisoner has already got a copy of the indictment.

Mr. HERON. But I want to see the original.

The ATTORNEY GENERAL. I submit that all he is entitled to is a copy of the document.

Mr. HERON. My lords, there is express authority in support of my application. I quote from 3 Cox's Criminal Cases, page 517, which says that "a prisoner indicted for felony is not entitled to a copy of the names and addresses of the witnesses appearing on the back of the indictment, but he will be allowed to inspect the indictment for the purpose of seeing the names of such witnesses." That has always been the law in England.

The indictment was then handed to Mr. Heron.

Mr. HERON. My lord, we put in a plea in abatement, which will be verified by the prisoner's affidavit.

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The usual affidavit in support of the plea was then sworn by the prisoner.

Mr. Heron read the plea in abatement as follows:

"And the said John Warren, in his own proper person, cometh into court here, and having heard the said indictment read, saith that it does not appear by any entry, statement, or indorsement upon the back of the said indictment, or upon any part thereof, that the witnesses whose names are indorsed upon the back of the said indictment by the clerk of the Crown, pursuant to the statute in such case made and provided, were, or that any of the said witnesses were sworn or affirmed by the said Alexander Ferrier, foreman, or any other member of the said grand jury, previous to this on his examination, or at all before the said grand jury, as appears by the record of the said indictment; and the said John Warren further saith that the said Alexander Ferrier, foreman, has not, nor has any other member of the said grand jury, stated and authenticated the same by his signature or initials upon the back of the said indictment or upon any other part thereof, that any of the said witnesses, upon whose testimony the said bill of indictment was found and returned a true bill by the said jurors, was sworn or affirmed previous to such witness or witnesses having been examined, or giving his or their evidence before the said jurors; and the said John Warren further saith that it does not appear by the record of the said indictment, or otherwise, that the said bill of indictment was found and returned a true bill by the said jurors, upon the evidence of any witness or witnesses who were sworn or affirmed by said foreman, or any member of the said grand jury. And this he, the said John Warren, is ready to verify; whereupon he prays judgment, and that the said indictment may be quashed."

Mr. Heron. My lords, the point of this plea in abatement is founded on the act 1st and 2d Victoria, cap. 37, sec. 1.

The attorney general demurred as follows:

"And thereupon the Right Hon. Robert R. Warren, attorney general for our said lady the Queen, who now prosecutes here for her Majesty, in this behalf saith that the said plea, above pleaded by the said John Warren, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to prevent the said John Warren from being now compelled to answer the said indictment; and the said Robert R. Warren, for our lady the Queen, prays judgment, and that the said John Warren may be compelled now to answer the said indictment."

Mr. Heron. We join in demurrer for the prisoner. This is our joinder in demurrer:

"And thereupon the said John Warren saith that the said plea above pleaded by him, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are sufficient in law to prevent the said John Warren from being now compelled to answer the said indictment, and are sufficient in law to preclude our said lady the Queen from prosecuting the said indictment against him, the said John Warren; and the said John Warren is ready to verify and prove the same, as the said court here shall direct and award."

The Attorney General. I respectfully submit that demurrer must be allowed. The

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plea which the prisoner has put into the indictment avers that it does not appear upon the back of the indictment that certain witnesses were sworn, and that it does not appear that Mr. Alexander Ferrier, the foreman, or any other member of the grand jury, by his signature or initials upon the back of the bill authenticated the swearing of the witnesses by whom this bill was found. This plea is stated to be founded upon the statute 1st and 2d Victoria, cap. 37, sec 1, by which act of Parliament the former law under which witnesses were sworn in open court was repealed, as was decided in the case of the Queen *vs.* O'Connell, and in lieu of that mode of swearing witnesses, it provided that the foreman or other member of the grand jury should have the power of administering an oath, and it then proceeds to say: "The foreman or other member of the grand jury who shall have administered such oath shall, upon the back of the bill, state the names of the witnesses, and authenticate the same by his signature or initials." Now the matter of fact which is admitted by our demurrer is that in the present case the foreman has not authenticated the swearing of the witnesses by his name or signature. We say that is not sufficient ground for a plea in abatement. In the case of the Queen *vs.* O'Connell and others, a similar plea was put in by one of the prisoners, Thomas Steele. (See 11th Clark and Fennelly's Reports, page 252.) I shall read to your lordships what Chief Justice Tyndal says, in his judgment given to the House of Lords on this question, in that case. He says:

"As to the ninth question, the errors in fact assigned in the writs of error *coram nobis* by each of the defendants—except Thomas Steele—were the same, viz: That the bill of indictment was found and returned a true bill by the grand jury upon the evidence of divers witnesses, whose names are enumerated, and of no other persons; and that these witnesses, previous to their examination before the grand jury, were not sworn in the court of Queen's Bench, as required by 56 Geo. III, c. 87, now lawfully bound by affirmation or declaration to give true evidence before the said grand jury. In the case of the writ of error *coram nobis* brought by the defendant, Thomas Steele, the error assigned was this: That the indictment was not found in the manner required by the

statute 1 and 2 Victoria, c. 37, inasmuch as that, in stating on the back of the said bill of indictment the names of the witnesses who had been sworn, &c., neither the foreman nor any other member of the grand jury did authenticate by his signature or initials, as is required by the statute, that the said witnesses, or any of them, had been sworn, or made affirmation or declaration; nor that no other witnesses, save those named in the assignment of errors, were so sworn, or affirmed, or examined before them. My lords, with respect to the assignment of errors in fact, grounded on the non-compliance with the statute 56 Geo. III, the answer appears to me to be, that the subsequent statute 1 and 2 Victoria, c 37, operates as a virtual repeal of the former as well in the court of Queen's Bench as in other courts of criminal jurisdiction in Ireland, &c."

Now, my lords, in this plea in abatement it is not alleged that in point of fact the witnesses were not sworn; the only fact put in issue by this plea is the fact of the non-authentication by the foreman or other member of the grand jury of the swearing of the

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witnesses; and that is the very point which has been solemnly decided in the case of the Queen *vs.* O'Connell to be insufficient ground for a plea in abatement. I submit, therefore, that this plea is bad, and that the demurrer must be allowed.

Mr. HERON. I have only to say, my lords, that the act of Parliament which has been read by me, and referred to by the attorney general, appears express upon the subject. Formerly the witnesses were sworn in open court. It now must appear in some way that the witnesses were sworn before the grand jury, and that the grand jury found the bill of indictment upon sworn testimony, and I say that on the face of the record here that does not appear. Therefore, following the conciseness of the attorney general, I say the demurrer ought to be overruled.

Mr. DOWSE. I desire to add one word to what has been said by my learned friend. We have but this matter upon the record of the proceedings, and that will answer our purpose. I do not intend at present to address any observations to your lordships in support of our plea further than to say that I think this case is distinguishable from the case cited by the attorney general, and in particular, that the plea put in this case was not the same as in the case of the Queen *vs.* O'Connell.

The CHIEF BARON. The case of the Queen *vs.* O'Connell appears to us to be a direct authority upon the question; we shall, therefore, allow the demurrer.

Mr. HERON. As I did not state fully my reasons, would your lordships permit me to renew my application on behalf of the prisoner Nagle? I may tell the attorney general that the prisoner is an Ameriaan citizen, born in the United States, and it is his intention to apply for a *venire de mediatate linguæ*. The proper way to do so, is when the prisoner is called upon to plead; on pleading "not guilty" he applies for the *venire de mediatate linguæ*, which the court then awards or not, as it sees fit. Mr. Dowse and I are only concerned for those two prisoners—Warren and Nagle. I put this partly on a ground personal to ourselves, for if the case be tried during term we shall be put to very serious inconvenience. I therefore humbly apply to your lordships, and would also respectfully appeal to the attorney general, that this preliminary may be disposed of. If your lordships see fit to grant the venire, of course it will take some time before the sheriff can execute it, and thus the case might run into the term, and by having the prisoner arraigned now the venire might be issued at once—a matter which I think would be more convenient to the court and to the Crown counsel, and certainly would be a great convenience to the counsel for the prisoners.

The ATTORNEY GENERAL. I am under the impression the proper time to apply for the *venire de mediatate linguæ* is when the jury is called to try the prisoner, not when he pleads.

Mr. HERON. No. The proper time is when the prisoner has pleaded. I may refer the attorney general to the case—I am sure he knows it, but I may recall it to his recollection—of the Queen *vs.* Maria Manning, reported in 1st Denison's Crown Cases. I am

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also prepared with other authorities, which establish the point that the proper time is when the prisoner pleads not guilty.

Mr. Justice KEOGH. There was no jury *de mediatate linguæ* in the case of Mrs. Manning.

Mr. HERON. No, my lord; it was decided in that case that the prisoner was not entitled to a mixed jury, because she was the wife of an Englishman; but it was decided that the proper time to make the application was when the prisoner pleads.

Mr. Justice KEOGH. That was the course adopted in the case of the Queen *vs.* McCafferty, tried in Cork.

Mr. HERON. Yes. In fact, the prisoner lapses his time if on pleading he does not inform the court that he is an alien and ask for a mixed jury.

The ATTORNEY GENERAL. He lapses his time if he allows the jury to be called without making the application.

Mr. HERON. No; he lapses his time if he does not make it when he pleads.

Mr. Justice KEOGH. In McCafferty's case the application for the venire was after the prisoner pleaded, but there was no application that the prisoner should be arraigned.

Mr. HERON. I am doing it on the ground of convenience.

The ATTORNEY GENERAL. I will endeavor to accommodate my learned friends as far as I can, and as soon as this case of Warren's is over I will have Nagle next arraigned.

Mr. HERON. Very well, that will do.

The CHIEF BARON. Proceed now to arraign the prisoner.

The CLERK OF THE CROWN. John Warren, you stand indicted that you, on the 1st day of March, 1867, and on divers other days as well before as after that day, feloniously and wickedly did compass and intend to deprive and depose our lady, the Queen, from the style, honor, and royal name of the imperial Crown of the United Kingdom of Great Britain and Ireland, and the said felonious compassing and intention feloniously and wickedly did express, utter, and declare by divers overt acts and deeds charged and stated in the indictment. And in a second count you are indicted that you feloniously and wickedly did compass and intend to levy war against the Queen within that part of the United Kingdom called Ireland, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing and intention feloniously and wickedly did express, utter, and declare by divers overt acts and deeds the same as in the first count mentioned. Are you guilty or not?

PRISONER. Not guilty.

Mr. HERON. May it please your lordships, on behalf of the prisoner we beg to hand in the following suggestion:

"And thereupon the said John Warren says, that he is a citizen of the United States of America, under the allegiance of the United States of America, and has been such citizen of the said United States of America from the first day of October, in the year of our Lord one thousand eight hundred and sixty-six, and still is a citizen of the said United States of America; and he says by reason of the premises he is an alien; and

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he prays the writ of our said lady the Queen to cause to come here twelve good and lawful men of said county, by whom the truth of the matter may be better known, and who are of no affinity to the said John Warren, to recognize upon their oaths, and inquire whether the said John Warren be guilty of the felonies in the said indictment above specified, or either or any of them, or not guilty, and so forth, whereof one-half to be natives, and the other half to be of aliens; to wit, born in the said United States of America, under the allegiance of the said United States of America, to try the issue of said plea."

The ATTORNEY GENERAL. I respectfully submit, my lords, that this suggestion ought not to be received.

Mr. HERON. Why not?

The ATTORNEY GENERAL. It is not a suggestion that the prisoner is an alien.

Mr. HERON. But why not receive a suggestion which I, on behalf of the prisoner, tender to the court?

The ATTORNEY GENERAL. It does not follow that every document a prisoner chooses to put in is to be placed on the record. There is no authority for receiving such a suggestion.

Mr. HERON. If the suggestion be an illegal one there is a course open to the attorney general, and he can so deal with it. If it be untrue in point of fact, there is also a course open to him. To every document of the kind put in on behalf of the prisoner the Crown have only one of two courses to adopt, either to demur or take issue in fact; but I entirely dissent from the novel doctrine—never listened to except in this court—that a pleading handed in by counsel on behalf of a prisoner is not to be received. Such a thing was never done in England in the whole course of the state trials.

The CHIEF BARON. I understand this question arose also in the course of the proceedings in Cork.

The ATTORNEY GENERAL. In that case, the Queen *vs.* M'Cafferty, it was admitted by the Crown that the prisoner was an alien; but where the fact is not admitted by the Crown, there must be some evidence given before the suggestion can be received. I submit that this suggestion cannot be received till the prisoner gives some *prima facie* evidence of the allegation on which the suggestion is based.

Mr. Justice KEOGH. Mr. Heron, do you ask us to receive the suggestion without giving us any evidence that the prisoner is an alien?

Mr. HERON. No, my lord; I ask you to receive the suggestion, and let the Crown either take issue or demur to it. If they take issue, then will be the time to give evidence.

The CHIEF BARON. The ground on which you call upon us to receive the suggestion is contained in the 37th section of the jury act.

Mr. HERON. I don't found my application on the 37th section, my lord.

The CHIEF BARON. On what other ground do you make it?

Mr. HERON. At present my application is that this suggestion be received. I found

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that application on the ordinary rules of courts of justice, never departed from in England, that any pleading handed in by counsel on behalf of a prisoner is received and dealt with according to law.

The CHIEF BARON. But we have first to determine is this a pleading.

Mr. HERON. It is a suggestion.

The CHIEF BARON. Is it a pleading?

Mr. HERON. It is, in this way: supposing it were untrue, the only way to deal with it would be to take issue upon it and then go into evidence, after which the court could decide upon the matter. In the case to which Mr. Justice Keogh has just referred—the Queen *vs.* McCafferty—no formal suggestion was handed in; the prisoner stated he was an alien, and the court thereupon directed the venire to issue. But the proper and regular course, as appears by the case of the Queen *vs.* Manning, is this: that a suggestion is put in by the prisoner, and the Crown deals with that suggestion. In the case of Manning it was refused, which is the strongest point in my favor, for the course adopted was not that of refusing to receive the suggestion; the suggestion was received and made part of the record. The attorney general took issue upon it, and it was decided by the fifteen judges afterwards that the prisoner had no right to the venire, because she was the wife of a British subject. But it was never contended by the attorney general that the suggestion which the prisoner handed in ought not to be received.

The CHIEF BARON. If the suggestion states what is entirely impertinent matter the court ought not to receive it. The purpose of this suggestion is, to claim a *venire de mediatate linguæ*—in other words, to claim a jury composed half of aliens. In order to show that that application is one that ought to be entertained, it is necessary to show that the prisoner is an alien, and there is no allegation in this document that he is an alien. If he is not an alien, he is not entitled in point of law to the privilege he seeks; and if that is not stated to us in a document which is presented to us for the purpose of inducing us to determine that he is entitled to that privilege, I question whether we can deal with it as a document properly receivable by the court.

Mr. HERON. My lord, I propose to try legally, in the only way I can upon the record, whether a citizen of the United States of America is not entitled to a jury *de mediatate linguæ* here in Ireland. The only way I can do that, in my humble judgment, is by placing that suggestion upon the record, in order that in case this court refuses the application there may be a power on behalf of the prisoner to appeal from this court to a superior tribunal. That cannot be done if the court decline to receive the document, which is not an offensive document; which is prepared properly according to the rules of the court; which may state what is contrary to law or what is according to law, but which, at all events, is, in point of form, a proper document properly prepared. My lord, according to the ancient practice, as appears by the reports of the state trials, no such question as this of not receiving such a document could arise, for the old practice was to file it in the office, and an office copy was furnished to the parties and

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brought into court for the trial, and there is no instance of any application having ever been made to have such a document taken off the files of the court, unless it contained some improper or offensive matter. I, on behalf of my client, claim the privilege to have the case tried by a jury *de mediatate linguæ*, and for that purpose I ask to have that document received, and I ask the attorney general to cite any case in the whole course of the state trials in England, even in the worst times, where a document handed in by prisoner's counsel was not received.

Mr. DOWSE. My lords, I shall shortly state the view which we, on behalf of the prisoner, take of this suggestion which we have handed in. We respectfully say that we have stated on the face of that suggestion that the prisoner is an alien. We are willing now, for the purpose of argument, to concede that he is not entitled to the jury *de mediatate linguæ* unless he is an alien. What that jury *de mediatate linguæ* may be will be afterwards matter for consideration if the *venire* is granted. We admit that the prisoner is not entitled to it unless he is an alien. We say he is an alien, and that we have so stated upon this suggestion, although we have not used the word "alien" in the document. We want to raise this point: that a citizen of the United States of America cannot be a subject of the Queen of Great Britain. If the Crown now put in another suggestion, stating additional facts, we are ready to deal with it. We say the prisoner is a citizen of the United States, owing allegiance to the United States, and we say that this is in substance the same thing as stating that he is an alien, only in more extended terms. We say he is a subject of the United States of America, and that in law that means an alien. This matter is not brought before the court for the purpose of making mere technical points and afterwards abandoning them. We wish to have the question solemnly argued and adjudicated upon, and with that object we now apply to your lordships to receive the suggestion. The Crown can then deal with it as they deem right. They may take issue on it; they may demur to it, or they may plead matter which may require a demurrer from us. Our present application is to your lordships to receive the suggestion and place it on the files of the court, so that the question which we seek to raise by it may be decided one way or the other.

The CHIEF BARON. What you mean to contend is, that being a citizen of the United States makes him an alien?

Mr. DOWSE. Yes; that a man cannot be the subject of a republic and a monarchy at the same time.

The CHIEF BARON. If that be the object of the suggestion, I fail to see any objection to that being stated on the face of the document. There is nothing to prevent your stating on the face of the document that he is an alien by reason of being a citizen of the United States of America.

Mr. DOWSE. Very well, my lord, we will do that.

The suggestion was then handed to counsel, who altered it as pointed out by his lordship.

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Mr. HERON. I will now read for your lordship the passage as altered:

"And thereupon the said John Warren says that he is a citizen of the United States of America, under the allegiance of the United States of America, and has been a citizen of the said United States of America from the 1st day of October, 1866, and that he still is a citizen of the United States of America, and he says by reason of the premises that he is an alien."

The ATTORNEY GENERAL. I think the document as it now stands is even more objectionable than before. I apprehend, notwithstanding my learned friend's reference to the state trials, that he will find no case in which a suggestion was received by the court unless, in the first place, there was proof of the matters of fact stated in the suggestion; and, in the second place, the court must be satisfied that it is a material suggestion. I admit that the suggestion would be material if it averred, as a matter of fact, that the prisoner was an alien; but it contains no such averment as a matter of fact. There is, instead of that, an argumentative averment, which, if we were dealing with it in another court, might be the subject of a demurrer, namely, that by being a citizen of the United States he is, in point of law, an alien. In every case that I have read, in which a prisoner applied for a jury *de mediatate linguæ*, it was on the averment that he was born out of the jurisdiction. Here there is no such averment.

The CHIEF BARON. A man may be born out of the jurisdiction and still not be an alien.

The ATTORNEY GENERAL. Quite so, my lord; but being born out of the jurisdiction is a necessary element to constitute a man an alien.

The CHIEF BARON. Mr. Heron, have you any authority as to the form of raising a question of this kind on the record?

Mr. HERON. No, my lord; I can only point to the invariable practice of the courts in England to receive any pleadings which the prisoner's counsel hands in.

Mr. Justice KEOGH. What is the practice as regards the granting of juries *de mediatate linguæ*? There surely must be some settled practice on the point. Is there any instance in which a jury *de mediatate linguæ* has been granted except on the suggestion that the prisoner was an alien?

The ATTORNEY GENERAL. No, my lord.

Mr. Justice KEOGH. Is there any instance of a suggestion being entered argumentatively averring that a prisoner was an alien?

The ATTORNEY GENERAL. None, my lord.

Mr. DOWSE. It is very easy to say "none," but how do you know that there is no such case?

The SOLICITOR GENERAL. I have never met with such a case. In every case I have seen, and in the form given in all the books, the statement is, "that the prisoner is an alien born, that is to say, that he was born in the county of ——, of an alien father and an alien mother." I respectfully contend that this suggestion is illegal.

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Mr. HERON. I decline to argue the legality of the suggestion till I know whether it is on the record or not.

The CHIEF BARON. With respect to the matter of fact alleged in the suggestion, what do you say, Mr. Attorney? Supposing we were disposed to receive the suggestion, if we considered the facts alleged in it *bona fide*?

The ATTORNEY GENERAL. We don't know how the fact is at all, my lord. Of course the prisoner is bound to give evidence as to the truth of the allegations contained in the suggestion.

Mr. HERON. I cannot go into evidence till I know whether the document is received or not.

The CHIEF BARON. This is matter to be determined by precedent, and we must follow what has been done in courts of justice before on similar occasions. We cannot award a *venire de mediatate linguæ* upon the mere allegation in a document that the prisoner is an alien. We cannot treat the statement as made *bona fide*, unless there be some evidence of his being an alien, or at least a statement showing distinctly how he is an alien, to which statement evidence may be applied. If the claim be made in the form of a suggestion, we must be careful that it be so framed that, if it be met by a demurrer, there shall be no doubt as to what is to be treated as admitted on the record. It must be so worded as to be free from ambiguity. I would therefore suggest that you should

add at the end of the sentence, "and he says by reason of the premises that he is an alien," the words, "and not otherwise."

Mr. HERON. Very well, my lord; I will do so.

The CHIEF BARON. If those words were not added, the prisoner might, if there was an appeal on demurrer, fall back on the suggestion of alienage.

Mr. HERON. I have now altered the document in the way your lordship suggests: "And he says that by reason of the premises, and not otherwise, that he is an alien."

Mr. Justice KEOGH. Does that make it unequivocal?

Mr. HERON. I think so, my lord.

The ATTORNEY GENERAL. I think it ought to state where he was born. Will you admit that the prisoner was born in this country, and afterwards became a citizen of the United States of America?

Mr. HERON. Wait till we hear what is to be done with the suggestion. Is the document to be received or not?

The CHIEF BARON. It is absolutely necessary that the facts shall be stated clearly on this document, otherwise we must decline to receive it. If, for instance, it should appear on the evidence that the prisoner was born in this country, or that he was born in America of persons who were British subjects, we might require before receiving this suggestion to have the facts set forth exactly on the face of the document. You cannot evade, or rather you cannot avoid (I will not say evade) the real question. If you desire to have this question entered on the record, you cannot avoid presenting it in such a manner as to raise the question in the mode most fair to the Crown and consistent with the facts in the case.

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Mr. HERON. My lord, everything alleged in court is to be proved, and ultimately found by the court *secundum allegata et probata*. If anything has been suggested contrary to law, there is an easy remedy for that; if anything contrary to fact, there is an easy remedy for that, too. I have alleged my facts upon the face of the document, but till I know the issue which I have to prove I must decline to go into evidence.

The CHIEF BARON. We cannot receive this document without evidence, acting on the authority of the Queen *vs.* McCafferty.

Mr. HERON. There was no suggestion entered in the case of the Queen *vs.* McCafferty.

The ATTORNEY GENERAL. Pardon me. I have the report of the case here, and it distinctly states that a suggestion was entered, evidence having previously been given on the question of alienage.

The CHIEF BARON. We ought to be satisfied by evidence that the suggestion is *bona fide*, and founded on fact, before we proceed.

Mr. DOWSE. Before we go into that, I understood your lordship to make a suggestion on another point, as to whether this document requires any further amendment.

Mr. Justice KEOGH. Yes.

Mr. DOWSE. I submit it does not, and that it is perfectly unequivocal. Your lordships will please bear in mind what the document states:

"And thereupon the said John Warren says that he is a citizen of the United States of America, under the allegiance of the United States of America, and has been a citizen of the said United States of America from the first day of October, 1866, and still is a citizen of the United States of America, and he says that by reason of the premises, and not otherwise, he is an alien."

I think, my lord, that is perfectly unequivocal.

Mr. Justice KEOGH. You want to raise the question that a British subject can adopt the American allegiance?

Mr. DOWSE. That is not the question exactly, my lord, though it may be involved in it.

Mr. Justice KEOGH. Surely that is the real question you wish to bring before the court: if not, that document is equivocal.

Mr. DOWSE. It is not equivocal. The statute gives to aliens the privilege of having a jury *de mediatate linguæ*. I admit that we are in the habit of understanding by the word "alien" a person born out of the jurisdiction. We wish to say that the prisoner is an alien by virtue of being a citizen of the United States.

The CHIEF BARON. Have you any objection to state on the suggestion that the prisoner was born within the Queen's dominions? We must take care that there shall be nothing in the frame of the document that shall avoid that question.

Mr. DOWSE. Perhaps it would not be right to ask your lordship the question, but as we are in the way of amendment, I wish to know would the suggestion be received when that statement has been added to it?

The CHIEF BARON. We cannot give an anticipatory judgment.

Mr. DOWSE. No, my lord, but you might throw out some encouragement.

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The CHIEF BARON. Well, if that alteration is made, it appears to me that the document would then raise the real question. Of course I don't know what the attorney general may have to say on the subject.

The suggestion was further amended by the counsel for the prisoner.

Mr. HERON. Now, my lords, I have made the further alteration, as required by your lordships. The document now stands thus:

"And thereupon the said John Warren says that he was born in Cork, in Ireland, and that he is a citizen of the United States of America, under the allegiance of the United States of America, and that he has been a citizen of the said United States of America from the 1st of October, 1866, and that he still is a citizen of the said United States of America; and he says that by reason of the premises, and not otherwise, he is an alien."

The ATTORNEY GENERAL. Still the document is equivocal, for he might have been born of American parents in Cork.

Mr. DOWSE. Sure no American would come over here to have a child born in Cork.

Mr. HERON. I shall now read to your lordships the letters of naturalization which the prisoner holds from the commonwealth of Massachusetts.

The ATTORNEY GENERAL. Is that document verified in any way?

Mr. HERON. It has on it a seal, which at all events will be recognized; it is a document under the seal of the United States of America.

The CHIEF BARON. Let us first decide whether we shall now receive the suggestion. Mr. Attorney General, do you see any objection to our receiving it in the shape in which it now stands? Of course I do not ask you to give any consent to our receiving it.

The ATTORNEY GENERAL. No, my lord; of course not.

The CHIEF BARON. Do you apprehend that in the statement that he was born in Cork there is anything equivocal?

The ATTORNEY GENERAL. Yes, my lord; because that is followed by an averment that he is a citizen of the United States, and under the allegiance of the United States. A man born in Cork of American parents, who went back afterwards to America, would be unquestionably an alien.

The CHIEF BARON. Is it alleged that the prisoner was born of British subjects?

The ATTORNEY GENERAL. No, my lord; the document merely says he was born in Cork, and that he was an American citizen from the 1st October, 1866.

Mr. HERON. Well, my lords, I now tender this suggestion, and produce the letters of naturalization granted to the prisoners from the commonwealth of Massachusetts.

The ATTORNEY GENERAL. I object to the suggestion being received until it is further amended.

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Mr. HERON. I decline to amend the document any more. Your lordships may now pronounce judgment upon the matter.

The ATTORNEY GENERAL. I ask your lordships not to receive this document in its present shape, being ambiguous and immaterial.

Mr. Justice KEOGH. I think, Mr. Heron, you may very fairly meet the suggestion of the court. To raise the material question, you very properly inserted in the suggestion the statement that the prisoner was born in Cork. I take it that a person born in Cork, if born of American parents, would be an American citizen just as much as a child born in America of British parents would remain a British subject, though born, suppose, in New York. There can be no doubt about that. Then why should you hesitate to carry out your own view, and add the statement, "Born in Cork, and of British parents"?

Mr. HERON. Very well, my lord; I will do that. I will add the statement, "Born in Cork, of Irish parents."

The SOLICITOR GENERAL. Before Mr. Heron makes what I suppose is his final amendment, I would ask your lordships' attention to one other point. Allegiance is always an important element in this question—the allegiance under which a person was born. The facts always resolve themselves into the question: Under what allegiance was the prisoner born? I think that point ought to be stated in the suggestion.

The CHIEF BARON. Add the statement, "Born of British parents, under the allegiance of her Majesty." When that is done, Mr. Attorney, you will consider whether this is a document to which you can demur, or whether it is a document in which the proper course would be to refuse to make the order.

Mr. HERON. My lords, I consider the averment that the prisoner was born in Cork, of Irish parents, is amply sufficient, and I will not make any other amendment.

The CHIEF BARON. Then I should be disposed to rule that, the document being ambiguous, it should not be received.

Mr. HERON. I respectfully ask what is ambiguous in the document? It is distinctly stated that he was born in Cork, of Irish parents.

Mr. DOWSE. We will put in anything necessary to do away with ambiguity.

Mr. Justice KEOGH. What objection is there to saying, "Born in Cork, of Irish parents, in Ireland, under the allegiance of the Queen?"

Mr. HERON. I will say under the allegiance of the United Kingdom.

The ATTORNEY GENERAL. No; under the allegiance of the Queen.

Mr. HERON, (having again altered the document.) Very well; I have now made it,

"Born in Cork, of Irish parents, in Ireland, then under the allegiance of King William the Fourth."

The SOLICITOR GENERAL. My learned friend puts in the word "then." What is the meaning of that?

Mr. HERON. "Then" means, when born, that his Irish parents were then under the allegiance of the King.

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The SOLICITOR GENERAL. In the way the sentence stands it might mean that Cork was under the allegiance of the King.

Mr. HERON (having again altered the document.) I have now made it thus: "his said parents and the said county being then," at the time of his birth, "under the allegiance of King William the Fourth."

The SOLICITOR GENERAL. What is the meaning of that? Surely no one ever heard of a county being under the allegiance.

Mr. HERON. I only put in the words in consequence of your own suggestion.

The SOLICITOR GENERAL. I never suggested that.

Mr. HERON. Well, I will strike out those words. [Mr. Heron then struck out the words "and the said county," and handed the document to the clerk of the Crown.]

The CHIEF BARON. Mr. Attorney General, I wish you now to consider and apprise us whether you think the course to be adopted (supposing the court to be of opinion in your favor) should be a demurrer on your part, and a judgment on the demurrer, or on ours simply a refusal to avoid the *venire* upon your representation that we should do so?

The ATTORNEY GENERAL. I think, my lord, our mode of reply would be a suggestion on the part of the Crown that the prisoner is not entitled to the jury *de mediatate linguæ*.

Mr. HERON. I have made every amendment.

The ATTORNEY GENERAL. I am sure you will make this also.

Mr. HERON. I think there is no difference, and therefore I consent to that.

The CHIEF BARON. One is only an inference from the other—that he was born of Irish parents, who were British subjects then, and born in allegiance to the monarchy.

Mr. HERON. Born of Irish parents, was my phrase, then under the allegiance of King William the Fourth.

Mr. Justice KEOGH. What do you propose to do now?

Mr. HERON. I have added the words "and that," to make it read properly.

The suggestion as finally altered and filed was as follows:

"And thereupon the said John Warren says that he was born in Cork, in Ireland, of Irish parents, and under the allegiance of his late Majesty King William the Fourth, and that he is a citizen of the United States of America, under the allegiance of the United States of America, and has been such citizen of the United States of America from the 1st day of October, in the year of our Lord 1866, and still is a citizen of the said United States of America; and he says by reason of the premises, and not otherwise, that he is an alien; and he prays the writ of our said Lady the Queen to cause to come here twelve good and lawful men of said county, by whom the truth of the matter may be better known, and who are of no affinity to the said John Warren, to recognize upon their oaths, and inquire whether the said John Warren be guilty of the felonies in the said indictment above specified, or either or any of them, or not guilty and so forth, whereof one-half to be of natives, and the other half to be of aliens, to wit, born in the said United States of America, under the allegiance of the said United States of America, to try the issue of said plea."

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The ATTORNEY GENERAL. I wont object to that. It may be entered. My lords, in answer to that suggestion, we say:

"That by reason of anything above said and suggested by the said John Warren, the said John Warren is not entitled to the writ of our Lady the Queen next above by him prayed, and that the same should not be granted to him the said John Warren."

The CHIEF BARON. We are both of opinion that in the first instance we need not call on the Crown to state their objections to this application.

Mr. HERON. What I would say is this, my lords: It appears to me to have been in early times very much a matter of discretion with the government whether or not they would give certain people the privilege of having a jury *de mediatate linguæ*, as it was called in old times, and, as your lordship is aware, the King was in the habit of granting it by charter to the Lombards; he also granted to the Allemaines, and other companies of foreigners in England, the privilege in all cases, civil or criminal, of having a jury *de mediatate linguæ*. It appears to me at common law entirely within the discretion of the government; and at this moment it is within the power of the attorney general to grant such a thing. It appears to me to be merely a matter of discretion at common law—a matter of favor from the government of the country—to grant a jury *de mediatate linguæ* to any person. In a civil case, where the parties were plaintiff and defendant and adverse, it could only be claimed by either one or the other by express charter from the Crown; but it is in the power of the King at common law, in a trial between him and a subject, to give the subject a jury *de mediatate linguæ*. I say,

therefore, it is entirely in the power of the attorney general for the time being to say whether he will grant a jury *de mediatate linguæ*. I say next, that in the management of the trial it is very doubtful whether this court has not the same power. At all events, my client instructs me, as a citizen of the United States of America, to claim the benefit of a trial by a jury composed half of Americans and half of British subjects. He respectfully presses his claim, through me, on the court.

Mr. DOWSE. The matter comes before the court for the first time, and no authority can be cited for it, and we are obliged to argue the case on general principles. As to what my learned friend said on the common law there can be no doubt. With reference to the word alien, we say the meaning of that is a person who is not under the allegiance of the Crown at the time, and my client stands in this position—he stands here having renounced his allegiance to the sovereign of this kingdom. He says he owes no allegiance as a subject of the Crown of Great Britain and Ireland. There is a document in evidence which is *prima facie* evidence of the fact of this man being what we call an alien—that is, his naturalization papers of the commonwealth of Massachusetts, and by these papers he has announced his *bona fide* intention of becoming a citizen of the United States. By these papers he renounces fidelity to every foreign power, potentate, and sovereign, and especially to Queen Victoria, whose subject he had heretofore been. He is admitted by the superior court of the commonwealth of

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Massachusetts, which, I believe, has authority under the statute in that case made and provided—he is admitted a citizen of the State of Massachusetts, which is one of the States of the United States of America, having renounced allegiance to the Crown of Great Britain and Ireland. Having lived a sufficient number of years, he obtained papers of naturalization. We say he is an alien, and that, though an alien, he is subject to the jurisdiction of this court, which has power to try him except by a venire awarding him a jury *de mediatate linguæ*, which we say is to be composed half of subjects of Great Britain and Ireland, and half of American subjects.

The ATTORNEY GENERAL. My learned friend Mr. Dowse says that if he gets a jury *de mediatate linguæ* he is entitled to have half of them Americans. That is not the law.

Mr. DOWSE. I say that does not arise. Give us the venire, and then we will argue that, but don't refuse us number two, when you say number one does not exist.

The CHIEF BARON. My learned brother and I do not entertain the least doubt as to the course we ought to adopt in reference to this proceeding. It is essential to sustain the application; and assuming the court has the power to grant it, the practice has been invariably to award a *jure de mediatate*, as it is called, wherever an alien claims it. But assuming the authority of the court, upon which I will not now cast the slightest doubt, it is perfectly plain the person who claims a jury *de mediatate linguæ* must be an alien. It is very truly put by the counsel for the prisoner, that what the prisoner contends for in the present case is, that by reason of what appears—assuming the statement to be fact—stated in the suggestion, he is an alien, and he is not now under the allegiance of the Queen. I cannot allow that proposition to be put forward without meeting it with a prompt and unhesitating denial. According to the law of England, a law which has been administered without any variation or doubt from the very earliest times, he who once is under the allegiance of the English sovereign remains so forever. It would be really almost pedantry for me to cite authorities on that subject. They are familiar to every lawyer. I shall cite one English authority, and I shall then cite some American authorities of the greatest weight and highest reputation. In the first volume of Blackstone's Commentaries, pages 269 and 270, the law is thus stated:

"Allegiance, both express and implied, is, however, distinguished by the law into two sorts or species, the one natural, the other local; the former being also perpetual, the latter temporary. Natural allegiance is such as is due from natural-born subjects. This is a tie which cannot be severed or altered by any change of time, place, or circumstances, nor by anything but the united concurrence of the legislature. An Englishman who removes to France or China owes the same allegiance to the King of England there as at home, and twenty years hence as well as now. For it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own, no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former, for this natural allegiance was intrinsic and primitive, and ante-

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cedent to the other, and cannot be divested without the concurrent act of that prince to whom it was first due. Indeed, the natural-born subject of one prince, to whom he owes allegiance, may be entangled by subjecting himself absolutely to another, but it is his own act that brings him into these straits and difficulties of owning service to two masters; and it is unreasonable that, by such voluntary act of his own, he should be able at pleasure to unloose those bonds by which he is connected to his natural prince."

Blackstone then proceeds to show that local allegiance, which by foreigners is due to

the monarch, continues so long as the foreigners reside within the kingdom. The maxim of the law on this subject, referred to by Sir Michael Foster, page 184 of his treatise, and referred to by a variety of other authorities, is *nemo potest exuere patriam.* I said I would only refer to one English authority. I have brought down, with a view to some possible matter which might have arisen, some American authorities, and I don't think it is unuseful to cite these authorities on the subject now before us. In Story's Conflict of Laws, page 23, section 21, referring to the general maxim or rule that the laws of one state do not bind property or persons in another, he says:

"Upon this rule there is often engrafted an exception of some importance to be rightly understood. It is that although the laws of a nation have no direct binding force or effect, except upon persons within its own territories, yet that every nation has a right to bind its own subjects by its own laws in every other place. In one sense this exception may be admitted to be correct and well founded in the practice of nations; in another sense it is incorrect, or at least it requires qualification. Every nation has hitherto assumed it as clear that it possesses the right to regulate and govern its own native-born subjects everywhere, and consequently that its laws extend to and bind such subjects, at all times and in all places. This is commonly adduced as a consequence of what is called natural allegiance; that is, of allegiance to the government of the territory of a man's birth. Thus, Mr. Blackstone says, natural allegiance is such as is due from all men born within the King's dominions immediately upon their birth."

He then proceeds to quote the passage from Blackstone which I have cited. In Chancellor Kent's Commentaries, in the 2d volume, page 42, the following is laid down as the English law. He is expounding the American law; and expounding the American law, founded as it is on the law of England, he says:

"It is the doctrine of the English law that natural-born subjects owe an allegiance which is intrinsic and perpetual, and which cannot be divested by any act of their own."

He then cites an English authority, in the case of McDonnell, who was tried for high treason in 1746, by Lord Chief Justice Lee, and who, he says—

"Though born in England, had been educated in France, and spent his riper years there. His counsel spoke against the doctrine of natural allegiance as slavish and repugnant to the principles of their revolution. The court, however, said that it had never been doubted that a subject born, taking a commission from a foreign prince and

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committing high treason, was liable to be punished, as a subject, for that treason. They held that it was not in the power of any private subject to shake off his allegiance and transfer it to a private prince; nor was in the power of any foreign prince, by naturalizing or employing a subject of Great Britain, to dissolve the bond of allegiance between that subject and the Crown. Entering into foreign service without the consent of the sovereign, or refusing to leave such service when required by proclamation, is held to be a misdemeanor at common law."

Chancellor Kent then deals with the question, how far the doctrine of the English law prevails in America. He says:

"It has been a question (here he leaves the English law and proceeds to expound the other) frequently and gravely argued, both by theoretical writers and in frequent discussions, whether the English doctrine of perpetual allegiance applies in its full extent to this country."

That is, whether in America that doctrine is recognized. Its recognition there or repudiation could not in the slightest degree affect this country or its tribunals. Chancellor Kent then proceeds with an elaborate review of the authorities, and he closes thus, stating his view of the American law:

"From this historical review of the principal discussions in the federal courts on this interesting subject of American jurisprudence, the better opinion would seem to be, that a citizen cannot renounce his allegiance to the United States without the permission of government, to be declared by law; and that, as there is no existing legislative regulation on the case, the rule of the English common law remains unaltered."

I have thought it right to cite these two great American authorities—Mr. Justice Story in his book on the Conflict of Laws—that is, on the laws of nations as they relate to each other; and Chancellor Kent, expounding the laws of America, and expounding it in the first instance by an exposition of the law of England, which is its foundation. We in our courts have been in the habit of treating, not merely with respect, but with reverence, these two great lights of the laws of America. We have cited them in our courts of justice; they have been quoted in our forensic discussions. The principles laid down by them, in interpreting in America the laws of England as they are adopted there, have been approved and adopted by some of the ablest judges that have sat on the British bench. Mr. Justice Story was himself a great judge; so was Chancellor

Kent; and some of the finest contributions that have ever been made to the science of jurisprudence, or to the law of England as a science, have been made by these two great men from whose works I have read these passages. I have thought it not unuseful, since I had the opportunity of doing so, of stating that this was the law as laid down by the great authorities in America, because I think it is desirable that they who in America formed views—I will say no more now than that—with respect to what is passing, or what is expected to pass, within the dominions of the Crown of England, should be aware of the obligations imposed on them if they have ever been under the allegiance of the Crown of England; and how, according to the laws of England, they

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may be dealt with when they are found here. For these reasons we are of opinion that the objection made by the attorney general is well founded, and that we ought not to comply with this application, and that the prisoner is not entitled to a jury *de mediatate linguæ*.

The clerk of the Crown then called over the names on the long panel.

Twenty jurors were challenged by the prisoner, and four jurors were directed by the Crown to stand aside.

The following jury was sworn: William Mercer, (foreman,) Alfred Davis, George Cooke, Henry William Hepburne, William Henry Mellons, Edward Nolan, William Marrion, Robert Robinson, William Shaw, Robert Thacker, Charles David Spinks, William Whyte.

The clerk of the Crown then read the heads of the indictment, which charged the prisoner, in the first count, that he did on the 1st of March, 1867, and divers other days, feloniously compass to depose the Queen from the style, honor, and royal name of the imperial Crown of Great Britain and Ireland, and that said compassings he did express by divers overt acts, which were stated in the indictment. A second count in the indictment charged that the prisoner, on the 12th of April, 1867, and on various other days, did feloniously compass to levy war against our lady the Queen in that part of the United Kingdom called Ireland, and in order to compel her Majesty to change her measures and counsels, and which said compassing he did express by various overt acts.

The attorney general rose to state the case for the Crown.

The PRISONER. My lords, as a citizen of the United States, I protest against being arraigned at this bar, and being tried as a British subject.

The CHIEF BARON. We cannot hear any statement from you now.

The PRISONER. Only a few words, my lord.

The CHIEF BARON. We cannot hear you. You have pleaded; your counsel has been heard in your behalf, and the course of the court is to proceed with the trial of that plea. We cannot hear anything more.

The PRISONER. I instruct my counsel to withdraw from the case, and I place it in the hands of the United States government; which government has now become the principal.

Mr. HERON. That being so, my lords, we have no alternative in the case.

The CHIEF BARON. I do not know that.

Mr. HERON. I should state to your lordship that this is not a hasty determination on the part of the prisoner.

The CHIEF BARON. The plea of not guilty is before us, and that plea must be tried, whosoever appears.

Mr. HERON. When he withdraws from his counsel the privilege of appearing, I apprehend your lordship can allow the prisoner to make a statement.

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The CHIEF BARON. He is at liberty to withdraw his plea if he thinks fit, but, with the plea before us, the only thing we can do is to proceed with the case.

Mr. HERON. The prisoner says he adheres to his determination, and that, my lord, leaves me no alternative.

The CHIEF BARON. That is for you.

Mr. DOWSE. It leaves me no other alternative either. I intend to yield to the suggestion of my client. If he withdraws his case from me, I have no further right to appear, and I disappear accordingly.

The CHIEF BARON. All I can do is to proceed with the case. Now, Mr. Attorney.

The attorney general again rose to address the jury.

Mr. HERON. My lords, permit me to say, before I withdraw, that, in my humble judgment, the prisoner should be allowed to state his reasons for this course.

The CHIEF BARON. We shall receive from you any statement on his behalf.

The ATTORNEY GENERAL. Gentlemen of the jury: No one can regret more than I do the transaction which you have just witnessed.

Mr. ADAIR. I beg your pardon for a moment.

The ATTORNEY GENERAL. Are you counsel in this case?

Mr. ADAIR. I am. I thought it only right to the prisoner to say I was instructed, on the part of the United States government, to appear in six cases, to watch the pro-

ceedings, and to report to them at my discretion. I told the American consul and his solicitor——

The ATTORNEY GENERAL. I think this is a most unreasonable interruption.

The CHIEF BARON. We shall not inquire into the manner in which you obtained your authority.

Mr. Justice KEOGH. Are you engaged for the prisoner at the bar? If you are not, it is most irregular.

The ATTORNEY GENERAL. For whom do you appear?

Mr. ADAIR. I will answer every question put to me, but I am not to be spoken to in that way. I am instructed by the United States government consul to appear and watch the proceedings in the other cases. When counsel withdrew from this case, the consul thought it right for me to appear for him, and the United States government too, and to see this case, as far as I can, properly conducted. I want to know from your lordships how far it is my duty and privilege, as counsel, to attend and interfere, or not interfere. I don't want to volunteer. It is not my professional habit to act irregularly.

The CHIEF BARON. If you are not acting as counsel for the prisoner we cannot allow you to interfere; if you appear for the prisoner we shall not inquire further, but we cannot recognize the counsel employed by persons who are unconnected with the proceedings itself.

The ATTORNEY GENERAL. Gentlemen of the jury: I regret these two transactions

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I regret that any member of the bar should interrupt the progress of the case, knowing that no gentleman has a right to address the court or the jury except he is retained on the part of the Crown or the prisoner; and I also regret deeply that the prisoner should have deliberately rejected the assistance of his eminent counsel—experienced in the law, learned and eloquent, and possessing every qualification for his defense. I had hoped, when concluding my statement, to be able to express the gratification it afforded me that the prisoner was defended in such a manner as that, if convicted, it would be because he was wholly indefensible. This, gentlemen, is not the fault of the counsel for the Crown. They are no party to the withdrawal of the prisoner's counsel. It is his own act, and upon himself the consequences must fall. I wish even now that he would change his mind, and avail himself of that assistance which may be of importance for the protection of his liberty.

The CHIEF BARON. Perhaps it is my duty to state what the prisoner may be ignorant of, that so long as his plea of "not guilty" remains recorded, and so long as he does not plead guilty, the case must be proceeded with; the statement for the Crown must be heard, and the whole evidence for the Crown must be heard and submitted to the jury.

The PRISONER. I am prepared for all that, my lord.

The attorney general resumed: Gentlemen, without preface, I propose to make a statement to you, as brief as I can, as clear as I can, and, above all things, as fair towards the prisoner at the bar as I can, of the case which it is proposed on the part of the Crown to bring before you. I shall state very shortly the nature of the crime charged against him, the circumstances under which he is charged with that crime, and an outline of the evidence which we shall submit to your consideration, in order to show that the prisoner was involved in that crime, and was personally a guilty party in the transaction. Gentlemen, the crime alleged against the prisoner is called "treason-felony," and it consists in compassing or imagining the deposition of the Queen from her royal state, or compassing, imagining, or intending to levy war against the Queen, and manifesting such guilty intentions by open external acts, when such compassings or intentions are manifested by one who owes allegiance to the Queen of the United Kingdom. The intention and design of a man are within his own heart; it is only by his open and external acts—what are called in the law-books his "overt acts"—that his intention and design can be known. Accordingly, gentlemen, the evidence that will be produced as bearing on open external acts will show that the prisoner has done these overt acts alleged against him, and your concern will be simply with the evidence brought before you on these overt acts. If you shall arrive at the conclusion that any one or more of the overt acts alleged in this indictment is or are truly and justly laid to the charge of the prisoner, then it necessarily follows, from the proof of the overt acts to your satisfaction, that the prisoner is guilty of the crime of treason-felony.

Gentlemen, this indictment contains a great variety of overt acts. It will not be

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necessary to call attention to all these overt acts, but I shall mention a few of them. In the first and second counts he is charged with conspiring with notorious Fenian leaders for the purposes of the Fenian conspiracy. In the fifth count he is charged with attending Fenian meetings. The sixth count I shall allude to shortly, because it refers to transactions which will be related to you. It charges that the prisoner did embark on board a certain vessel in America, having on board guns and pistols, came to the

west of Ireland, and sailed and cruised along the coast with the intention of effecting a landing, and of landing arms for the purpose of fighting against the Queen, and raising an insurrection in Ireland. The seventh count alleges that he sailed into a certain bay called "Sligo bay," for the same purpose of levying war against the Queen. The eighth count alleges that he joined a treasonable conspiracy in America, called the "Fenian Brotherhood." The tenth count charges that he conspired to provide arms to make war against the Queen. The 15th, that he became a member of an association called the "Fenian Brotherhood," which had for its object the overthrow of the Queen's authority and the establishment of a republic, and made journeys and collected moneys, &c., for that purpose. The 16th count alleges a levying of war in the county of Dublin; and the 20th alleges that in Sligo bay he administered an unlawful oath to Michael Gallagher, to keep secret certain acts and deeds of the Fenian Brotherhood.

There is first the charge of conspiracy. If you are satisfied upon the evidence that the prisoner was a Fenian conspirator, then that will be proof of an overt act sufficient to sustain the indictment, and to oblige you to find a verdict of guilty. The only overt act on which I shall now make an observation is that of making war in the county of Dublin, because there will be no evidence that the prisoner personally levied war in the county of Dublin; but that charge is introduced because evidence will be given that members of the same conspiracy did levy war in the county of Dublin; and then, according to a well-known principle of law, not confined to the United Kingdom, but recognized also in the United States, every man who joins in a criminal conspiracy is liable and responsible for and guilty of the acts of all his conspirators which are done in furtherance of the purposes of the conspiracy. And if it shall appear to you, gentlemen, that the prisoner was a member of a conspiracy having for its object the establishment of a republic in Ireland, and that other members of the same conspiracy levied war against the Queen in the county of Dublin, the prisoner himself is guilty of that levy of war. And the object of introducing it into the indictment is to give you, as jurors of the county of Dublin, jurisdiction to try the offense; because, by a principle of our law, a man can be tried only in the venue or place where he has, by himself or by the agency of his co-conspirators, done the acts which are charged against him.

Gentlemen, I have spoken of this conspiracy as a Fenian conspiracy. Unfortunately, it is almost unnecessary to speak to you of the nature or the history of the Fenian movement; but it will be my duty to occupy some time upon that subject, because you

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are not at liberty to act as jurors except upon the evidence which will be brought before you. You come into that box to try the prisoner as if you had never heard of that conspiracy, to try a man who at this moment must be presumed to be innocent of the crime charged. And, therefore, you must be satisfied upon the evidence of two things: you must be satisfied of the existence and nature of the Fenian confederacy, and that, beyond a reasonable or substantial doubt, the man who is now presumed to be innocent is, notwithstanding that presumption, guilty of the crime imputed to him in the indictment.

The Fenian conspiracy was organized in Ireland and America for the purpose of establishing a republic in this country—for the purpose of deposing the Queen from the crown of this country, and of subverting the government. It was established for the purpose of destroying the social system of the country, of confiscating property, and of plundering the present proprietors of their possessions. These objects were to be achieved by the conspirators by force of arms and insurrection; because such objects as these could not be accomplished by any moral persuation or influence. This conspiracy had leaders civil and military. It had men holding ranks known as "A's," "B's," and "C's," "centers," "head centers," "delegates," and "organizers." Amongst the men who held these offices were enrolled a great number of discontented and disaffected men—men without property or possession—men for the greater part without education. In my experience of the Fenian conspiracy I have not yet heard, as being connected with it, the name of one man of property or possessions, or who had one material thing to lose by rebellion. It comprised men of the lowest orders in this country, and men of a somewhat superior class who came from another place to take a leading part in the insurrection.

This Fenian conspiracy existed in America before the breaking out of the civil war between the northern and southern States. When that struggle closed, the immense armies on both sides were to a large extent disbanded; and the consequence was that great numbers of American soldiers and of officers in the American armies were thrown upon the world without employment or occupation, and the result was that these men, thus deprived of what had been their means of livelihood, became members of this conspiracy. They were men of courage from their antecedents and of ambition from their circumstances, and they threw themselves into the cause of the Fenian conspiracy with all their hearts, expecting, as a reward for their services, places in the new commonwealth, and a liberal share of the spoil which was to crown the efforts of the insurgents.

In the winter of 1866 and 1867 the plans of these conspirators were to a certain extent matured, and it was resolved to rise in open insurrection in this country. It was resolved first to rise in February last. That attempt proved abortive, and it was then resolved to rise again on the 5th of March last. And accordingly on that day the rising took place, and amongst other counties in the county of Dublin, as alleged in the indictment. That attempt at insurrection happily failed. The conspirators failed from their own infirmity, and because of the power and vigilance of the government, and in

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consequence of valuable information which was communicated to the government by one who had served in the American army, who had been an active Fenian, but who, at the time of giving this information, was in the employment of the government. The insurrection, fortunately for all parties, perhaps most so for the disloyal, had not even a momentary success. A few policemen and a few coast-guards were made prisoners of war, in the name of the Irish republic; a few houses were plundered and burned; there was a little bloodshed, but there was a great failure of this attempt at insurrection, which burst forth in so many parts of Ireland and was contemplated in others.

Although that rebellion was most disastrous as regards the social and material prosperity of Ireland, it was in itself contemptible, almost as contemptible as another Irish rebellion, which the vanity of a foolish gentleman instituted in this country some years ago, and which he brought to an issue in a memorable battle amidst the derision of Europe! One would have thought, gentlemen, that the issue of the "rising" of the 5th of March would have been a lesson to the Fenians in this country and in America—that it would have taught them by experience the folly of these efforts. But, unfortunately, even the lessons of experience are sometimes thrown away on desperate men. Scarcely had the 5th of March passed by—scarcely had the unfortunate men who went out for the purpose of rebellion found shelter from the pelting of the pitiless storm—some in their cabins, some in ships to convey them to distant lands, some in miserable jails—when a new expedition of desperate men was organized for the purpose of aiding the Fenian conspiracy; and it is with the details of that extraordinary expedition, which, as the lord chief baron said in charging the grand jury, shows that "truth is sometimes stranger than fiction," that you, gentlemen, will be chiefly occupied during the progress of this case. I shall proceed to state to you that transaction; but you must bear in mind that it is not the only charge against the prisoner. The charge against him is twofold. One is, that he is a conspirator, and a member of the Fenian conspiracy; and if, upon the evidence, you are satisfied of that, you are bound to find a verdict of guilty, irrespective of that extraordinary transaction which I am now about to disclose.

John Warren, the prisoner at the bar, was, as you have heard, born in the county of Cork. Some years ago, before 1866, he emigrated to America, and he there entered the military service of the United States. He rose to the rank of captain, and in 1862, for some cause or other, he was dismissed from the American service. About 1862 Captain Warren was a prominent member of the Fenian conspiracy in America, and he became the head center for Massachusetts. The 5th of March had passed, and I suppose the news of what happened here on that date must have reached America before 12th April; but on 12th April, 1867, a party of 40 or 50 men, almost all of them officers and privates, or who had been so in the service of the American government, dropped down in a steamer from New York to Sandy Hook, a distance of about 18 miles. At Sandy Hook

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they found a vessel of 113 tons burden, which had been purchased for the purpose of the expedition, and in this brigantine they embarked and sailed for Ireland. The name of the ship was the Jackmel. She sailed without papers, and she had no colors when they started. Of course, gentlemen, the object was to avoid suspicion. Her object must have been some irregular project, or she never would have sailed without papers, because, as you know, the navigation of a ship is encountered with great difficulty if she is found sailing without papers, and papers, of course, could not be got from the American government. They sailed without colors.

The men got orders to embark without luggage—rather an extraordinary thing for a party of 40 or 50 men, most of them officers, to embark for a distant voyage without any luggage. I shall be able, gentlemen, before I close, to give you the names and military rank of almost every man who embarked on board that vessel; and, I think, their military rank is a circumstance impossible to be reconciled with a legitimate project; that 40 or 50 men, generals, officers, and privates, should embark on board that ship, and sail from New York to Ireland, without any luggage! Of the 40 or 50 no fewer than 31 were arrested in Ireland by the constabulary, as I shall by-and-by explain. Among the men who left New York on the 12th April, who embarked on board the Jackmel, and who were afterwards arrested, was a man named Buckley, who will be produced as a witness; a man named Nolan, who will be also produced; a man named Nagle, called "General Nagle," and Captain Warren, or, as I understand, he was called in the Fenian service, "Colonel" Warren. The captain of the vessel was named Kavanagh, and the name of the commander of the expedition was Kerrigan. Neither

of the two last mentioned is in custody; but I understand it will be proved that Kerrigan filled the office of brigadier general in the American army, and was at one time a member of the American Congress. These men did not sail on this expedition without some cargo, though they had no luggage. They had a very large quantity of fire-arms of various kinds. The arms were packed in piano cases, in cases for sewing machines, and in wine casks, so as to conceal them effectually, These arms, thus packed in these cases, were, for the purpose of concealment, consigned to some mercantile firm in the island of Cuba; and during the voyage some of the large cases were opened and the contents repacked in smaller cases, no doubt for the convenience of landing.

The Jackmel, as I have said, sailed without papers or colors. After one day's sailing towards the south, in the direction of the West Indies, her course was changed, and the ship was steered towards Ireland. When vessels occasionally came in sight English colors were hoisted, as a further means of deception, and so the party proceeded on their voyage. Nothing remarkable occurred until Easter Sunday, the 21st April,

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nine days after they sailed. They resolved to celebrate this day as a high festival; and accordingly they hoisted a green flag with the sun-burst to the mast-head; they fired a salute, and they changed the vessel's name to the "Erin's Hope." What a mockery to call that vessel "Erin's Hope!" as if any good could be hoped for from such an expedition, organized in such a way, led and conducted in such a way, and having such an object as kindling the flame of insurrection in Ireland, to the destruction of the peace and prosperity of the country. Erin's Hope! On the same day Kavanagh, who was in charge of the vessel, produced Fenian commssions, and distributed them among the officers on board, and informed the people in the vessel that his instructions were to sail to Sligo and land the men and arms there; and that if he failed from any cause to land the arms and men there, then he was to proceed to some other place where there were fewer difficulties to be encountered. This was on the 21st of April.

The ship proceeds on her voyage; she sailed northward towards Sligo, and arrived off Donegal; then she came back and arrived at Sligo bay on the 20th May, and here, according to the sealed orders of Captain Kavanagh, the arms and men were to be landed. Of course it would be a perilous thing to attempt to land them without some communication from the shore, and for several days the Jackmel continued coasting along the shore, sometimes coming into the Bay of Sligo. Whilst there, several transactions of a curious character, important and interesting, as affording a means of testing the credibility of the witnesses, occurred during the six or seven days. The first thing we know to have occurred, almost immediately after the vessel arrived off the coast of Sligo, was that the ship's boat was sent out, landing two men named Shea and Doherty, and of these men I know nothing further, for they have not been arrested. The next matter to which I call your attention was that the man named Buckley, who will be produced, accidentally, whilst the vessel was coasting up and down, discharged his revolver when in the act of cleaning it, wounding a man named Smith, who is still in hospital, and also a man named Nolan. In consequence of these wounds, it was considered desirable not to keep them on board, and accordingly the boat was sent out with the wounded men, accompanied among others by a man named Nugent, and these three were after a short time arrested and taken into custody.

The next incident is a very singular transaction. On the coast of Donegal bay, which is situated just to the north of Sligo bay, is a pilot station, and Michael Gallagher, a pilot, was looking out for some occupation in his profession when he saw this brigantine, the Jackmel. Accordingly, he put out from the station, and was hailed by those on board the ship. They called on him to come on board. He went on board and saw the man who had charge of the ship, and this man told him that the captain had gone ashore at Sligo, which was not the fact. They had some conversation, in the course of which the man in charge told him, "We are come from Spain; we have a cargo of fruit on board, and we are going to Glasgow." After a little conversation the man in charge directed Gallagher to go to the cabin. He did so, accompanied by the man in charge, and in the cabin he found two officers. The two men in the cabin were

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Nagle and the prisoner Warren. Nagle immediately, in the presence of Warren, proceeded to examine the pilot, and put a variety of questions to him. He asked him about the Fenians, and whether he was himself a Fenian. Gallagher said he was not. "Why don't you become one?" said Nagle. "O," said Gallagher, "I have a wife and children, and I don't want to have anything to say to such things;" as sensible an answer, gentlemen, as could be given to one who was attempting to draw him into a miserable conspiracy of the kind. After this conversation Nagle produced a book, and called upon Gallagher to swear that he would not give any description of the ship when he went on shore. Gallagher refused, and made a variety of excuses. He said he had never taken an oath before on board ship; but, at all events, he manifested the greatest relnctance and unwillingness to take the oath. Nagle asked him first, and Warren afterwards intervened, and ordered the pilot to take the book in his hand. He still refused, when the man in charge produced a pistol and threatened to shoot

him if he did not take the oath; and thereupon, Gallagher, naturally enough, with a pistol to his breast, took the required oath that he would not describe the vessel when he went on shore. He was then allowed to return on deck. He had sent his own boat away, and in a short time after a small hooker came alongside, and out of it came a man, apparently a gentleman, who immediately went into the cabin. In a short time he came up on to the deck, the hooker still lying alongside the vessel, and ultimately he got into the hooker and proceeded ashore. Gallagher attempted to follow him, but he was forcibly dragged back. However, when the wounded men were sent ashore Gallagher was sent with them, and when the party landed he ran as fast as he could until he met two coast guards, who took him under their protection.

The importance of this evidence, gentlemen, will be evident; and, indeed, the circumstance of administering the oath is one of the overt acts charged. Another transaction with reference to the gentleman who came alongside the brigantine in a hooker, who was well known by many of the officers, and whose name was Colonel Burke, is, that after he had been some time in the cabin, he, with one of the officers of the expedition named Prendergast, who is not arrested, landed with two or three other men on the shore. Up to this time the brigantine had been waiting for an opportunity to land the arms at Sligo. On the day after Burke was in the cabin, the inferior officers on board the ship were assembled and informed that they could not land the arms at Sligo, and that they were to put to sea. Manifestly Burke had told them that from the way matters stood on shore it would not be safe for their men to land or to put the arms ashore, and on the 26th May the ship left the coast of Sligo. I cannot say whether she sailed along the western coast of Ireland or by the north coast and by the Irish channel. My own impression is that they came down, passing Dublin by the Irish channel. But however that may be, gentlemen, on the 1st June the ship was off Dungarvan, on the Waterford coast. While she was there councils were held on board, at

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which they discussed what was prudent to be done for the expedition under the circumstances. They had failed in Sligo, their provisions had become short, and they could not remain much longer at sea. These matters were the subjects of discussion among the American officers. They divided on the question—some were for landing, and some against it; but at last the conclusion was come to, overruling the opinion of some, that the majority of the officers and men should be landed, and that the remainder should either go to America, or some place called the Western islands.

That conclusion was arrived at on or before the 1st of June; and on that day a fishing-boat belonging to a man named Whelan came alongside. Whelan, who speaks Irish, saw only four or five men on board, and the spokesman said, "We want to put two men on shore, and we will give you £2 for taking them." Whelan came alongside, and went on deck, and whilst he was there 28 men rushed upon the deck of the brigantine and into the fishing-boat. Whelan had nothing for it but to take them ashore. Accordingly, he began to proceed towards shore, and he asked them where they wanted to be landed, desiring to know whether he should go to Helvic Point—the nearest point of land. They asked, "Is there a coast guard station there?" I suppose their attention was roused by the appearance of the detached white houses of the coast-guard station. He said there was, and they replied that would not do. "Will I land you at Dungarvan?" said he. "No," they said. "Where, then, will I land you?" said Whelan, or one of his men, and they pointed out a place on the shore where there was no regular landing place. Accordingly, Whelan ran his boat into the place indicated. The boat, heavily laden, grounded in three and a half feet water, and the men jumped out and ran on shore, without taking off their shoes or stockings, or their trowsers, which were wet and covered with sand and mud. Among the men who thus landed were Nagle and Warren, the prisoner, and Buckley, the witness, who will be produced to you, and who was the last man who came out of Whelan's boat on that occasion. A coast guard, vigilant in his duty, saw a boat coming ashore. He did not see the men as the boat was passing Helvic Point, but he saw them as they were jumping ashore. He gave information, and the constabulary were on the alert to arrest these men.

Gentlemen, we shall not follow the course of all of them. They broke into small parties; and we will confine our attention to two—the prisoners Warren and Nagle. There is a man named Andrew Roche, who lives in a farm-house a short distance from where the boat landed. Warren and Nagle, with their trowsers wet, went up to the house of this man Roche, about eleven o'clock on the 1st of June. He was at work in his garden, and they asked him how far it was from Youghal. He said about 12 miles. They asked for a conveyance, and he said he had a car and pony, and that he would take them if they paid him, and they agreed to pay him five shillings to take them to Youghal. These men were wet up to the middle. Warren and Nagle drove towards Youghal, and when they arrived at the bridge across the Blackwater they

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met a constable named Norris, who had received information and was on the alert. He observed that they were strangers and that their trowsers were wet. He asked

them where they came from. Warren said, "We come from Dungarvan." He asked where they belonged; Warren said his name was John Donovan, and Nagle said his name was William Palmer. I do not wish to anticipate the witness; but it will be proved to you that they said, "We were on a fishing excursion; our vessel took fire, and we escaped and got ashore in a fishing-boat." Thereupon Norris said it was his duty to arrest them and he did arrest them. They were searched, but they had no arms. When searched at the police barracks nothing was found on the prisoners; but on Nagle were found some documents which you will have before you; but, gentlemen, stating this case as I am, in the absence of counsel for the prisoners, I don't think I would be justified in reading those documents until his lordship shall have decided that the evidence is admissible against the prisoner.

This was the end of the Jackmel expedition. The 26 men who were on board the lugger were all arrested in different places within four and twenty hours. That, gentlemen, is the principal transaction you have to investigate. It will be sworn that that expedition was fitted out for Fenian purposes; and the question will be, whether you will have any difficulty in believing the statement that that was the object of the expedition. Gentlemen, you will ask yourselves, what does all this mean —what brought all these soldiers to this country—what brought all the arms on board? Were they brought for a legitimate purpose, or were they brought by men who had engaged to aid the Fenian conspiracy, and to assist traitors in this country to rise in insurrection against the Queen? What cause brought Warren there—what brought him on board that vessel—what brought him in the cabin of the vessel off Sligo, when he compelled Gallagher to take an oath? What was the purpose that induced Warren to give a false name when arrested, and to give a false story? because the story of the burned ship will be proved to be false. If they came for a legitimate purpose, they would state what it was. If they came from Spain with fruit, there would be no concealment of the transaction, no suspicious movements, no false names, no effort to avoid the observation of the coast guards. People resort to falsehood when they have a crime to conceal. If it was a Fenian expedition, all is intelligible.

Gentlemen, the issue is a single one. You will first have evidence of the fact of the Fenian conspiracy, and that the prisoner was a member of it. You will then have evidence that the Jackmel expedition was fitted out to promote the Fenian conspiracy. That is another case for a conviction, if you believe the evidence I have detailed. What the defense will be I cannot conceive. The most important consideration for you will be to weigh the evidence. Unless you believe the informer, and unless, in addition to believing him, his statement is confirmed by some evidence of an unquestionable character, the prisoner will be entitled to an acquittal. Gallagher, the pilot, will be produced, and he will corroborate Buckley; but it is sufficient for me to say

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that the great consideration for you is, to see whether the evidence is worthy of credit. If you have a substantial doubt, acquit the prisoner; but, gentlemen, you understand the meaning of a substantial doubt. It is not the possibility of a man being mistaken, or of a witness telling a falsehood; but after applying all reasonable tests to the testimony given, the question is, on the whole are you satisfied that the evidence is true and that the prisoner is guilty?

Gentlemen, this case is one of great importance; its importance cannot be exaggerated. If the prisoner be not guilty of the crime laid to his charge, it is of importance to him and to the administration of the law of this country that he should be acquitted. He has the benefit of presumed innocence as he stands at the bar; he cannot be divested of that presumed innocence without evidence to satisfy you that he is not innocent. But, on the other hand, gentlemen, it is of the greatest importance that the prisoner should be convicted if he be guilty of the crime laid to his charge; no man can dispute that proposition. For the ignorant peasant, tempted and seduced into treason, we can feel sympathy; but I can feel no sympathy with the man who comes from another country; who deserts his adopted home to be a firebrand in our country; to excite the people to their own destruction, to misery, and ruin. It is of deep importance to the welfare of Ireland that strangers should be deterred from such wanton and wicked aggressions on her peace and her prosperity. Gentlemen, if the prisoner is not guilty, acquit him. The more grievous the crime charged, the more important it is that he should be acquitted if he be innocent. But if he be guilty, let nothing prevent you, let no considerations whatever prevent you, from doing your duty to your country by convicting him of this great crime.

No man surveys the United States with more admiration than I do. When I look at her unbounded resources and the indomitable energy of her people; when I think of the gigantic struggle through which she has just passed, I see for America a future of greatness exceeding, perhaps, that of Rome, perhaps that of Britain. Let the citizens of America, whether native citizens or adopted citizens, lend their energies and efforts to achieve that greatness; we envy them not; but, in the name of humanity, let them not come to our country to augment her evils, to increase the divisions between her

people, and lead them to their ruin. Let America and her sons rejoice in her great power, but let them not seek to disturb the peace of other kingdoms.

"Illâ se jactet in aula
Æolus et clauso ventorum carcere regnat."

Gentlemen, I conclude. I know that you would give to any case your diligent, your patient, and your conscientious attention. To this case you will give especial care and attention, because the prisoner is undefended by counsel. Once more, gentlemen, I repeat, acquit him in the name of justice if you have a reasonable doubt of his guilt; but if you have none, then your verdict, as a matter of course, will be a verdict of guilty!

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THURSDAY, *October* 31, 1867.

The court sat at 10 o'clock a. m., this day, and resumed the trial of John Warren.

The jury having answered to their names, the following evidence was given on behalf of the prosecution:

DANIEL BUCKLEY, examined by the SOLICITOR GENERAL:

Buckley, where were you born?—In Ireland, sir.

What age are you?—About 25, as far as I know.

Where in Ireland were you born?—I believe in Munster.

Shortly after your birth were you taken to America, or did your parents emigrate to America shortly after your birth?—I suppose so; I have no distinct recollection of the country.

But do you remember when a child being in America?—Yes, when I was not very old, at least.

What part of America did you live in?—New York.

Did you enlist in any of the military services when you were there?—During the last war I did, sir.

Was it in the northern or confederate army?—The northern.

And about how long ago is that?—In 1861, I think.

How long did you serve in the regiment you first enlisted in?—I served somewhat about two years in that regiment.

And did you then remove to another?—Yes.

Did you serve through the whole of the American war?—I served from the first battle.

Until when?—Until its close.

And when did you leave the service—what month, do you remember?—In August, 1865.

Did you become a member of the Fenian organization at any time when you were in America, since leaving the army?—I connected myself for a time with the Fenian organization.

Did you take any pledge when you joined it?—Yes.

And what was the pledge that you took?—Simply I pledged my word and honor.

To do what?—Not to divulge the objects for which the organization was founded.

The CHIEF BARON. You said you pledged your word and honor not to divulge what?—The objects for which the organization was founded.

The SOLICITOR GENERAL. What were those objects, as communicated to you?—For revolutionary purposes.

In connection with any country was it?

The CHIEF BARON. Let him state what the objects were.

The SOLICITOR GENERAL. What were the objects—what revolutionary purposes?—To revolutionize Ireland, sir.

In what way?—By giving Ireland a republic.

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The CHIEF BARON. Making Ireland a republic?—Yes.

The SOLICITOR GENERAL. Did you pay any subscription when you so joined?—I did, sir.

For how long, and what amount?—I paid ten cents a week for somewhat less than a year—not more than a year.

Was it in New York you took that pledge and joined that society?—Yes, sir.

Did you join any expedition last year in connection with that society?—Last year, yes.

And what was that expedition?—I did not know the object of the expedition. I went merely to the State of Maine.

Was it with other members of the society?—Yes.

The CHIEF BARON. You went to the State of Maine with whom?—With others connected with the Fenian Brotherhood.

The SOLICITOR GENERAL. Did you yourself do anything in Maine, or the members who were with you?—No, sir.

You came back again?—Came back again soon.

In February of this year were you introduced to any person in New York in connection with Fenianism?—Yes.

To whom were you so introduced?—To Colonel James Kelly.

By whom were you introduced?—By a man named Costello.

Who was Colonel James Kelly?—He was at that time the head of the military department of the Fenian Brotherhood.

In what place?—New York, sir.

Did Kelly communicate to you the plan of any proposed expedition?—He communicated to me an expedition.

What did he tell you of it?—He said there was such a thing setting on foot; he did not tell me when it was to start.

The CHIEF BARON. What did he say about setting on foot?—An expedition.

He did not tell when it was to start?—No.

Did he tell you where it was to go?—No.

The SOLICITOR GENERAL. Did he tell you it was a Fenian expedition?—Yes.

Did you agree to join it?—Yes.

And did you meet Kelly frequently in connection with that proposed expedition?—Yes; some three or four times afterwards.

Where in New York did you see him?—19 Chatham street.

Was that the headquarters of the organization in New York at that time?—Yes, sir.

Now, was anything done in regard to that expedition; any pledge or oath?—Yes, sir; there was an oath.

Was it administered to you?—Yes.

By whom?—By John Hogan and James Kelly.

The CHIEF BARON. That is Colonel Kelly?—Yes.

The SOLICITOR GENERAL. What was that oath?—That I would not divulge the secrets of the expedition.

Did you, after that, go to any place in consequence of having received an intimation in regard to that expedition in New York?—Yes.

What place?—East Broadway; I do not know the number of the house.

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And from whom did you receive the information to go there?—Through Colonel Kelly, from John Hogan.

The CHIEF BARON. Hogan conveyed it to you from Kelly?—Yes.

At what place did you say? Did you say you don't know the particular place?—In East Broadway, New York.

You don't know the exact place, therefore?—No, sir.

The SOLICITOR GENERAL. To do what? What were you to do there?—To meet others.

Do you mean in connection with the expedition?—Yes.

Upon what day, do you remember? What was the day you were so told to attend?—The 12th day of April.

In the present year?—Yes.

Was anything more told you as to what would happen when you met there?—No, sir.

Were you told what you were to do when you went there?—I was told to follow the others.

To any particular place, was it?—To the foot of Canal street, in New York.

And were you told what was to be done there?—No, sir.

Or where you were to go?—I had no intimation at that time.

Did you go to the place?—Yes.

The CHIEF BARON. What place did you go to?—The foot of Canal street.

The SOLICITOR GENERAL. And did you meet any parties there?—I did, sir.

About how many?—Only those whom I had already met, with whom I had parted in Broadway, going in ones, twos, and threes—going so as not to excite suspicion.

The CHIEF BARON. Coming in ones, twos, and threes?—Yes.

The SOLICITOR GENERAL. But had you in fact attended at East Broadway before you went down to this place in Canal street?—Yes.

Had you met any person at East Broadway?—How many persons had I met?

Have you met persons at Broadway?—Yes.

About how many?—Over 40, I should say.

Was anything communicated to you at East Broadway, before you went down to Canal street, as to what you were to do at Canal street?—Nothing whatever, except to follow the others.

Had you any baggage with you?—None, sir.

Or any of the parties that you saw?—Some had baggage.

The CHIEF BARON. Some of the party you met?—Yes.

About how many had baggage?—Some two or three that I had seen, sir.

The SOLICITOR GENERAL. What do you call baggage, which you say two or three had?—Valises.

Does this Canal street you speak of open on the river?—Yes, sir.

And what did you and the others of the party do when you got to the foot of Canal street?—Went on board a steamer.

Was that steamer waiting for you? Was it there ready for you?—No, sir; we were waiting for it, as I understood.

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And it came up?—Yes.

And did you all go together?—I should think we all went together on board that steamer.

And did the steamer leave the quay then?—Yes.

And where did she go to?—She went to the outer bay of New York.

About how far is the distance from the quay to what you call the outer bay of New York?—Some 15 or 20 miles.

And is that the roadstead of New York you went to?—It is the outer anchorage.

How long did you remain at that outer anchorage?—From some time in the afternoon of the 12th of April to the afternoon of the 13th of April.

And during that time did you all remain on board the steamer?—Yes.

What did you do on the afternoon of the 13th? What occurred then?—The vessel not making her appearance, we cast loose from a buoy to which the steamer was anchored, with the intention of returning.

The CHIEF BARON. What cast loose?—The steamer.

The SOLICITOR GENERAL. What vessel did you refer to?—I did not know at that time what kind of a vessel it was.

But had a vessel been spoken of?—Yes.

By whom?—By James Kelly and John Hogan, the vessel had been spoken of.

What had they said about it?—They did not tell me of what size it was, whether it was brig or ship.

What did they say about this vessel, or a vessel?—This vessel was to convey arms.

The CHIEF BARON. They said so?—Yes.

The SOLICITOR GENERAL. You say the vessel not appearing, you cast loose from the buoy. What happened then?—We cast loose with the intention of going back to New York.

Well, what happened then?—Meeting a vessel, two-masted, on the way, we steamed close to her and jumped aboard of her.

What was the name of that vessel?—The Jackmel packet.

Did the whole party that had come down to the steamer get on board the Jackmel packet?—Yes, sir.

About how far had you proceeded from the moorings that you had cast loose from before you met that Jackmel packet?—Some two miles or three.

Had she a crew on board independent of your 40 men, or the number you speak of?—Yes.

And a captain?—Yes.

And did she sail on your going on board?—No, sir; not immediately.

And about how long did she remain?—Some two or three or four hours afterwards.

Now, you say, that was a brig or two-masted vessel?—Yes.

Do you know about what tonnage that vessel was?—Yes.

Of what tonnage was that vessel?—One hundred and fifteen tons registered, as I understood.

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The CHIEF BARON. How do you know that?—I heard Captain John F. Kavanagh state that.

The SOLICITOR GENERAL. And was she well found in sails and appliances for a vessel of her class?—Not very well.

About how many of a crew had she?—She had four sailors.

A cook?—A cook and boy.

The CHIEF BARON. Besides the captain?—And two officers.

The SOLICITOR GENERAL. A captain and two officers—a mate and another?—Yes.

The CHIEF BARON. Two officers besides the captain?—Yes.

Was one of the officers a mate?—One of them was a mate.

The SOLICITOR GENERAL. What track did you take when you set sail from the roadstead of New York?—I learned from Captain John F. Kavanagh that we took the track usually pursued by West Indiamen.

Did Kavanagh tell you why that track was taken?—Yes.

Why?—If pursued, he supposed they would pursue him in the European track, and consequently he would avoid being captured.

And in consequence he took the West India track?—Yes.

Now, had you any colors flying when you sailed?—I don't recollect seeing any when we sailed.

Were any colors hoisted occasionally during your voyage?—Yes, the English colors were hoisted on different occasions.

Was that when you met vessels?—When we desired hailing any vessel.

The CHIEF BARON. What did you hail the vessels for?—Sometimes we did not know where we were—what particular part of the ocean we were in.

The SOLICITOR GENERAL. Can you tell how long the West India track was pursued?—Until the afternoon of the next day.

The afternoon of the 14th?—Yes.

And was the course changed then?—Yes.

The CHIEF BARON. What time in the second day?—In the afternoon. The course was then changed more to the south of the general European track.

The general European track?—The track pursued by European vessels.

The SOLICITOR GENERAL. Was that track continued?—Yes, generally.

You stated Kavanagh was the captain. Was there any person in command of the expedition—I don't speak of the sailors or the ship itself?—There was.

And what was his name?—General James E. Kerrigan.

Do you know whether James E. Kerrigan had been a general in the United States army?—No, sir.

And what had he been?—He had been a colonel for a time in the army.

Had you known him before you sailed, or was the first acquaintance you made of him on board?—I knew him before sailing.

Was it as an officer you knew him, or how?—I knew him as a congressman of the United States.

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Had he been a congressman of the United States?—Yes, sir.

Had you known him in connection with this expedition until you got on board?—No, sir.

Had he been in the northern army?—Yes, sir.

Had you obtained any commission in this expedition, either in New York or on board?—I received a commission in both places.

In New York from whom?—From Colonel Kelly, or through Colonel Kelly.

And on board, from whom?—General James E. Kerrigan.

Have you these commissions, or what did you do with them?—I threw one of them away before coming ashore, and the other I did not bring with me.

That is the New York one, I suppose?—Yes.

The one you got on board you threw away before landing in Ireland?—Yes, sir.

What was the rank you were appointed to by these commissions in the expedition?—Captain.

Now, you have stated that Kerrigan was the general?—Yes.

Were there any other officers of high rank in the expedition?—There were some colonels.

I want you to tell me carefully the names of those you recollect, according to their rank. Who were the colonels?—Colonel Nagle, Colonel Warren.

Is that the prisoner at the bar?—That is the prisoner.

Well, any other colonels?—Colonel Phelan, Colonel Prendergast, or Pindergast, I don't know which of the two; Colonel Tressilian, Colonel Deven, Colonel Doherty.

Are these the names of all the colonels you recollect?—That is all.

Were there any captains as well as yourself?—Yes.

Will you tell me the names of as many of the captains as you recollect?—Captain Costello, Captain Greene, Captain Buckley *alias* Murray, Captain Fitzsimons, Captain Kane, Captain Leonard. I do not recollect any more captains.

Were there any lieutenants?—Yes.

Tell me the names of any lieutenants?—Fitzgibbon, Roche, and William C. Nugent; I do not recollect any more.

Were there any privates or any ordinary men? There were understood to be none; they were all expected to have commissions.

All captains?—Yes.

Tell me, did you know any of the others, or any of the crew?—James Lawless, one of the crew, Cade, (his right name is Murray,) L. Doyle, Daniel Lee, Thomas Fruen, Patrick Nugent, James Coffey or Nolan; I cannot recollect any more names.

There were others, but you do not recollect their names?—There were others.

Can you tell what day was it you got the commission after you sailed—about how long after you had sailed?—Not more than an hour after getting on board the vessel.

The CHIEF BARON. After getting on board the brig?—Yes, the brig.

The SOLICITOR GENERAL. When the commission was so given to you, shortly after

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getting on board the brig, did you see commisions given by Kerrigan to any other of the parties?—I did, sir.

Was it to all the others of the party, or to a great number?—To a great number of them.

Did you see the prisoner, Colonel Warren, getting his commission?—No, sir, I did not.

The CHIEF BARON. Did you see commissions given to any of the colonels?—No, sir.

The SOLICITOR GENERAL. Did you to the captains?—Yes, sir.

Was that commission you spoke of—your commission—signed by Kerrigan?—No, sir.

Who was it signed by?—Colonel J. E. Kelly.

And do you remember what its contents were, as well as you recollect?

The CHIEF BARON. Signed by whom?—Colonel J. E. Kelly, and also by Captain Hogan.

The SOLICITOR GENERAL. Can you state what the contents of it were, as well as you recollect?—"To all whom it may concern, greeting. We, by these presents, do appoint (by name and rank) in the army of the Fenian Brotherhood." I do not recollect any more.

Then in your commission your name was in, and your rank?—Yes.

Was it in print or ink?—In print.

On parchment or paper?—On paper.

The CHIEF BARON. These commissions were signed by Colonel James Kelly?—Yes.

The SOLICITOR GENERAL. Now, did anything particular happen after you sailed? Do you remember Easter Sunday?—I do.

Did anything happen worth mentioning before that?—I would say not.

And if anything did happen worth mentioning you would remember it.—Nothing happened till Easter Sunday.

Will you state what did happen on Easter Sunday?—The green flag, with a sun-burst, was hoisted some time before noon—I do not know the hour exactly. At its hoisting there was a salute of different arms fired, after which the orders delivered to John F. Kavanagh in New York, commanding him to land the arms in Ireland, were read.

Read by whom?—By John F. Kavanagh.

By Kavanagh himself?—Yes.

And did he read any signature to that order?—Yes.

What signature?—The signature of Captain Powell, the chief of the navy; also the signature of Colonel James Kelly; it read so.

Did it say where in Ireland they were to be landed?—If possible, at Sligo. Or if not found practicable, they were to be landed somewhere on the coast of Ireland.

Was anything done about the name of the vessel that day?—Yes.

What?—She was newly christened.

By whom, and in what name?—She was christened the "Erin's Hope," by John F. Kavanagh.

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Were the officers, the colonels and others, present when that order was read, and when the christening took place?—Yes, sir.

Were they collected for that purpose?—Yes.

On the quarter-deck, I suppose?—On the quarter-deck.

Was Warren there?—Yes.

The CHIEF BARON. Warren, you say, was there at both these transactions—at the reading of the sailing orders and the change of the name?—Yes.

The SOLICITOR GENERAL. Had you arms on board?—Yes.

Of what kind and what number?—Of different kinds.

When you say different kinds, can you say what different kinds?—We had some Spencer repeating rifles; seven-shooters.

What other kinds of arms?—We had some Enfield rifles; some Austrian rifles; we had some Sharpe breach-loading rifles; we had some Burnside breach-loading rifles also; these are the larger arms.

What small arms had you?—We had some revolvers.

How were the arms kept?—They were packed in boxes—large-size boxes.

What was on the box, did you observe?—They were Spanish names; I do not recollect what they represented.

Were they labeled as arms?—O, no; they were not labeled at all.

What size boxes were they packed in? They were packed in boxes within one another.

Where in the vessel were the boxes kept?—Between decks.

Was the vessel nearly laden to her full complement with arms? You said she was 150 tons register; was she deep in the water, or what?—She was reasonably deep in the water.

Had she any cargo on board but arms, to your knowledge?—She had no other cargo than arms.

Had you ammunition as well as the arms, or was it all the description of arms you spoke of?—We had some ammunition.

Do you mean cartridges, or what?—No; we had fixed ammunition.

What do you call fixed ammunition?—Already put up.

Made in cartridges?—Yes.

Was it in boxes?—No; it was scattered; it was not carefully packed; it was in a box having no lid, that I saw.

About what quantity was there of ammunition in this box that you speak of?—It was supposed to be over a million and a half of rounds of ammunition.

Do you know, as a matter of fact, about how many stand of arms were on board, or can you give us any more description about that vessel?—I should judge there were some 5,000 stand of arm on board; not less.

Were there any pieces of artillery on board?—There were some representing such.

How many?—Three pieces.

Were they fired at all?—Yes.

When?—On the occasion of hoisting the flag once.

What size were they?—They threw some three pounds shot or shell.

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The CHIEF BARON. Do you know the difference between a gun of that kind for a ship and a gun for use on land?—Yes.

Was this a ship gun?—No, sir.

What sort of carriages had they?—They had none.

The SOLICITOR GENERAL. Were the arms opened at all? I mean the cases in which they were during the voyage—the larger cases?—Yes, sir.

What was done with the arms when the cases were opened?—They were so placed as to be ready to distribute.

How were they placed? Were they repacked in any way?—They were placed so that they could be taken up in ones, twos, or threes, but still left in the boxes.

The CHIEF BARON. They were not taken out of the boxes?—Yes, sir; they were.

I thought you said they were left in the boxes.—They were rearranged in the boxes.

In the same boxes?—Yes, sir.

The SOLICITOR GENERAL. Was it stated for what purpose the arms were to be landed in Ireland?—Yes, sir.

For what purpose?—To arm a revolutionary party.

Who stated that?—James Kelly, John Hogan, and a good many others in connection with the movement whose names I do not know.

Where was that stated?—In New York.

Was the James Kelley who made that statement the same person as you have described as "Colonel" Kelly?—Yes.

The CHIEF BARON. Who else besides Kelly made the statement?—John Hogan.

And others whose names you don't remember?—Yes, my lord.

The SOLICITOR GENERAL. Had you known Warren, the prisoner, before you met him on board the brig?—I do not recollect ever seeing him.

Was there any discussion on board about the arms—as to the landing of them?—None about the arms.

Was there any discussion as to the purpose for which they were to be used when landed?—Yes.

Had you a conversation with any one about it; and if so, mention his name?—It was a general conversation, indulged in by all.

What was the conversation?—That those arms were to be given into the hands of men who, according to the representations made in New York, were to be at Sligo.

To do what with the arms?—To receive those arms.

But for what purpose?—For the purpose of revolutionizing.

The CHIEF BARON. Was the purpose stated; and if so, what was it?—For revolutionizing the province of Connaught.

The SOLICITOR GENERAL. Before I take you further, I wish to ask you, had you sailing orders when you left New York?—Sailing orders, sir?

Yes. Had you sailing orders on board the ship—the ordinary clearance certificates or papers?—No, sir; we had not.

Was anything said about that?—Yes.

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By whom?—By Prendergast.

Was that the Colonel Prendergast whom you already spoke of?—Yes.

What did he say?—He was dissatisfied at sailing in a vessel that had no clearance papers.

The CHIEF BARON. Did Prendergast state that? Did he say he was dissatisfied?—Yes, sir.

The SOLICITOR GENERAL. To whom did he say that?—To Colonel James E. Kerrigan, and the other colonels.

Was Prendergast the only one who expressed dissatisfaction?—No, sir. It was very near creating a mutiny in the expedition.

Was that dispute afterwards adjusted?—Yes, sir; Prendergast had his commission taken from him on that account.

By whom?—By General Kerrigan, but it was afterwards returned to him.

About how long was it kept from him?—Some two or three weeks, I think.

About what time did you sight land on the Irish side?—Some time in May—between the 12th and 20th of May, as near as I can recollect.

What point of the Irish coast did you first sight land at?—I do not know what point.

Was any one taken on board when you approached the land?—Yes, sir.

What was he?—A pilot.

Do you happen to know his name?—I do, sir; it was Gallagher.

Did he come out to the vessel, or did you pick him up?—He came out; he seemed to be following us from early morning. He followed the ship from early morning until some time before 12 o'clock, when we took him up.

How far from the shore was the ship then?—Some two miles; not further.

You were quite in sight of land, I suppose?—O, yes.

Besides the pilot Gallagher, did any other person come on board?—Within the Bay of Sligo a person did come on board.

The CHIEF BARON. Was it in the Bay of Sligo Gallagher came on board?—I should think not. I have no information otherwise of it, but I think it was in the Bay of Donegal he came on board.

But in the Bay of Sligo another person did come on board?—Yes.

The SOLICITOR GENERAL. Who received that other person when he came on board?—Captain John A. Kavanagh.

Where did that person go when he came on board?—He went on the quarter-deck for a few seconds with Kavanagh, and then went down to the cabin.

Who went down to the cabin with him?—I saw no one but Kavanagh go down with him; but the colonels were already in the cabin before him.

Was Kerrigan in the cabin?—He was.

The officers of inferior rank—were they in the cabin?—No, sir.

Were you there?—No, sir.

Do you happen to know what that person's name was who so came on board and

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went down into the cabin with Kavanagh?—I heard his name was Burke.

The CHIEF BARON. From whom did you hear that?—From a man named Costello.

The SOLICITOR GENERAL. Was that "Captain" Costello?—Yes, sir.

How long did that person remain on board?—Not longer than an hour, I should think.

About what hour of the day or evening, do you remember, did Burke come on board?—After dusk at night.

The CHIEF BARON. Was that the night of the day on which the pilot came on board?—I think it was.

The SOLICITOR GENERAL. You say he remained on board about an hour?—Yes.

Did he go on shore?—Yes.

Did any of the party go with him?—Yes; three colonels.

Do you know their names?—Colonel Devan, Colonel Phelan, and Colonel Prendergast.

About how far was the vessel from land when that party went on shore?—The vessel was very close to the land.

She was inside the bay?—Yes.

Had any of the party landed before this time that Burke, with Prendergast and the other two colonels, went on shore?—Yes; two of them.

On what day?—On the same day.

Who were they?—Colonel Doherty and a man named Shea.

The CHIEF BARON. Where did they go?—They went to Sligo very early in the evening.

Was that the same day the pilot came on board?—Yes.

The SOLICITOR GENERAL. How long after those two men that you speak of, who left early in the evening, had landed, did Burke come on board?—About an hour and a half.

Was Gallagher, the pilot, taken down to the cabin at any time during that day?—Immediately on coming on board the vessel he was.

By whom?—By John A. Kavanagh.

Did you hear anything said to Gallagher?—I did.

By whom?—By Kavanagh.

The CHIEF BARON. Did you go down with him?—No, sir.

The SOLICITOR GENERAL. How far were you off when you heard this?—A little over three feet.

Where was it said?—Between decks.

What was it you heard?—I had better first state how I heard it. There was a door communicating with the cabin from that part of the vessel in which I was, and at this door I was standing when this man, Gallagher, went into the cabin with Kavanagh.

The CHIEF BARON. Was the cabin between decks?—Part of the cabin was raised higher than the deck.

Was the door at which you were standing on a level with the cabin floor?—Yes.

The SOLICITOR GENERAL. Were any of the officers in the cabin at that time; and if so, tell me who?—The colonels were in the cabin.

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Was the prisoner there?—Yes.

Was Nagle there?—Yes.

The CHIEF BARON. Did you see the prisoner there?—He could not help but be there; he was nowhere else in the ship.

But did you see them there?—I heard them conversing there; I did not see them there.

The SOLICITOR GENERAL. What did you hear said to the pilot?—I heard only part of the conversation between the pilot and Kavanagh.

State what that was.—It was in excuse for not taking a Fenian oath.

An excuse by whom?—By Gallagher, the pilot.

What was the excuse?—That he was too old; that was all I could gather. I afterwards heard the pilot take the oath.

The CHIEF BARON. Was he still in the cabin when he took the oath?—Yes; it was administered to him by Colonel Nagle.

The SOLICITOR GENERAL. Can you state what the oath was that you heard the pilot take?—That he would not divulge what the cargo consisted of.

Did the pilot afterwards come on deck?—Shortly after.

Did you hear anything else said, either in the cabin or out of it?—No.

Did the two men, Doherty and Shea, who went on shore, come back on board?—No, sir.

They did not return?—No, sir.

Did Colonel Prendergast and the others who went on shore with the man whom you call Burke return?—No, sir.

Do you remember anything happening about discharging a pistol at any time?—I do, sir; it went off accidentally.

When was it?—It happened on the same day the Fenian agent, Burke, came on board.

In whose hands was the pistol that so went off?—In mine.

What were you doing with it?—I was cleaning it.

Where were you at the time?—In the ship's hold.

How did it go off?—It went off accidentally.

Was it loaded?—It was.

Was any one hurt?—Yes, two men were hurt; one was a man named Coffey, otherwise Nolan; the other man's name was John Connor.

Were the men much hurt?—One of them was very badly hurt.

Which of the two was that?—John Connor.

Has Connor any other name?—I don't know him by any other name.

Whereabouts was he wounded?—In the ankle.

Where was Nolan hit?—Somewhere in the fleshy part of the leg, near the knee.

Were those men afterwards put on shore?—Yes.

Did any of the party go with them?—Yes; a man named Nugent went with them.

Was he the same Nugent you already spoke of when giving the list of names?—No, sir; this was Patrick Nugent.

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Didn't you mention Patrick Nugent as one of the men of inferior rank?—No, sir; I mentioned Colonel Nugent—a different person.

The CHIEF BARON. What was Patrick Nugent?—I don't know that he had any rank.

The SOLICITOR GENERAL. Did any one else go ashore with the wounded men?—The pilot, Gallagher, left in the same boat with the three men.

During the night?—Yes.

During this time that you were in Sligo bay were you close to shore at any time?—Very close; at one time I could almost throw a stone from the ship to land.

About how far from the shore were you when the boat left the ship to take the wounded men on shore?—I could not say the exact distance.

It was night, I suppose?—It was.

Did anything occur next day?—A council was held.

Where was it held—was it on deck?—No; in the cabin.

Were you present?—I was.

The CHIEF BARON. Was this still while you were in Sligo bay?—I don't know exactly whether it was in the bay. I don't know how large the bay is.

The SOLICITOR GENERAL. Were you in sight of land at the time?—Yes.

Were all the officers present at the council, according to your recollection?—Yes.

Was the vessel under sail or stationary at the time?—She was under sail, sir.

Was anything communicated—and if so, by whom—to that council?—Yes; by General Kerrigan.

What was communicated?—The information derived from the agent, Burke.

What did he tell you?—He told us that it was impossible, or rather that it would be foolish, to attack the town of Sligo.

Anything more?—That the Fenian Brotherhood was quiet, but firm; that they had been put down lately.

Anything further?—I should state, with reference to the statement that it was useless to attack the town of Sligo, that that had been determined on previous to the agent coming on board.

What had you determined on before the agent came on board?—To attack the town of Sligo.

Was it at a council that was determined?—Yes.

Was Warren, the prisoner, present at that?—Yes.

You say that General Kerrigan told you you could not take the town of Sligo?—Yes; that Burke had told him so.

Was anything said as to what you had to do?—Nothing more than that the agent had ordered Captain Kavanagh to sail for Cork.

Was the prisoner Warren present at that council?—Yes.

Did the vessel set sail then?—She did, sir.

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The CHIEF BARON. When was the council held at which it was determined to attack the town of Sligo?—It was held before the agent came on board.

When—how long before?—I could not tell the exact time.

Was it on the same day?—It was held in the absence of any information.

I know. But how long was it before the Fenian agent came on board? Was it the same day, the day before, or a week before?—No; it was on the same day.

Where were you at that time?—I should think in Sligo bay, somewhere.

The SOLICITOR GENERAL. Was the pilot on board at that time?—I do not know whether he was or not; I could not say for certain.

The CHIEF BARON. What part of the vessel was that council held in?—In the cabin.

Who were at it?—All the officers were at it, sir.

Any one else?—None, sir.

The SOLICITOR GENERAL. You put to sea, you say, in consequence of the determination of the council on the information given by Burke. Do you remember on what day afterwards you came in sight of land again?—I do not remember.

Do you know what part of the coast you first sighted?—I was told we remained all day becalmed not far from a place called Baltimore, in the county of Cork.

Was there a council held on that day?—No, sir; but there was before arriving.

Were you present at that council yourself?—Yes.

Who besides you were present?—All, except the crew and General Kerrigan and Colonel Warren.

Where were Kerrigan and Warren? Why were they not at it?—They did not acquiesce in the summoning of any such conference.

Was the result of that council afterwards communicated to Warren?—It was, sir.

What was determined at that council?—To put the ship in the directon of the Western islands—I think the Azores. I do not know exactly what is referred to as the Western islands; to put the ship in that direction so as to provision her, and then to return to New York.

Do you happen to know what amount of provisions you had on board at the time that council was held?—Yes.

Were the provisions short, or were they abundant?—They were short.

The CHIEF BARON. How do you know that?—By the second officer communicating the fact to the council after an investigation made by him.

Do you mean the mate?—Yes.

Was the captain present?—You mean Captain Kavanagh? He was not; he had nothing to do with it.

The SOLICITOR GENERAL. Were there any notes of the proceedings of the council taken at the time, in your presence?—There were.

By whom?—Colonel Nagle was one of those who took them.

Did you see Colonel Nagle taking notes?—I did.

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The CHIEF BARON. Were notes taken by any one else?—Yes, by Captain Costello.

Did any one else take them?—I did myself.

The SOLICITOR GENERAL. What did you do with the notes you took?—I threw them all away.

Before you came on shore?—Yes.

Was there any division at that council, or was it unanimous; was a vote taken?—Yes.

What question was put?—That as the object for which the expedition had been taken up was a failure, it would be better to return to New York and to lay before the Irish there the experience they had gained, rather than run the risk of landing in Ireland in their straitened condition.

Did they say what was to be done in the United States when they went there?—Yes; they were to lay before the Irish the experience they had gained during their connection with the expedition. To this Captain Kavanagh agreed.

The CHIEF BARON. I thought you said he was not present?—He agreed to abide by the decision of the council.

The SOLICITOR GENERAL. Do you mean that that was the resolution which was come to by the council?—Yes.

And was that resolution communicated to Kavanagh?—It was, sir. I was the individual who communicated it to him.

Where did you communicate it to him?—On the forecastle. No; I beg to correct that statement. I should have said the after part of the vessel, not the forecastle.

The SOLICITOR GENERAL. Was Kavanagh satisfied with that resolution; was he willing to abide by it?—Yes, sir, he was at first. After the vote was taken it was decided, by 22 for to 10 against, that they should return to the United States.

Was that vote of the council taken in the cabin before Kavanagh was informed of the result?—Not in the cabin; it was taken on the quarter-deck.

Was he present?—He had nothing to do with it.

But was he present?—He was present on board the ship.

The CHIEF BARON. I thought you said the council took place in the cabin?—This council? I beg your lordship's pardon, I did not.

The SOLICITOR GENERAL. The council at which it was determined to give up the expedition and go back to America, and lay the experience they had gained before the Irish people; did it take place on deck?—It took place on the after part of the vessel.

That is what you call the quarter-deck?—Yes.

Was that the vote you communicated to Kavanagh?—Yes.

Was that resolution carried out, or was it changed?—It was changed.

How?—Immediately on my presenting Kavanagh with the document exonerating him from blame or connection with that council which had been gotten up for the purpose of changing the orders received by him in New York, he turned round and asked if they would not land anywhere he could land. It was then agreed that they would land anywhere he chose.

The CHIEF BARON. Was anybody else with Kavanagh when he said that?—Yes, sir; all were present on the quarter-deck.

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Were all present when you communicated to him the result, and when he made that proposition which they agreed to?—Yes.

The SOLICITOR GENERAL. I understood you to say that Nagle and Warren did not attend that council which came to the resolution you have mentioned?—Yes.

But that the result was afterwards communicated to them?—Yes.

Was that at the same time?—Yes; at the same time.

Where was it communicated to them?—Nagle remained in the cabin, and it was communicated to him there. Colonel Warren came up, and he was informed of it on deck.

You say the colonels were present at that council?—All the party were present except General Kerrigan and Colonel Warren.

Where were they at the time the council was proceeding?—They were in the cabin.

Where were they at the time the communication was made to Kavanagh?—Kerrigan was in the cabin; Warren was on deck, and so were all the others.

And was the first intimation Warren got of the decision the council had arrived at, what you communicated in his hearing to Kavanagh?—No, sir; I had communicated with him previous to the council sitting.

Communicated what?—That such a thing would take place.

When you first communicated to Warren as to what would be likely to occur at the council, did Warren agree or dissent?—He dissented.

When you subsequently communicated to Kavanagh, in his presence, the result of the council, did he still dissent or agree?—He assented after the council was held, and when the decision was presented to him for his signature.

Was the decision drawn up in writing?—Yes, and Warren signed it.

The CHIEF BARON. Then he assented to what the council had determined?—Yes.

The SOLICITOR GENERAL. You said something about the prisoner's signing a document?—Yes; the resolution come to at the council. I presented it to him myself for his signature.

Did he sign it?—Yes, sir.

What became of it?—It is in the possession of Captain John F. Kavanagh, of New York.

The CHIEF BARON. Was it before you communicated the result to Kavanagh you presented the document for signature to Warren?—I communicated it at the same time to Kavanagh that I did to Warren, both being present at the time.

And in Kavanagh's presence you asked Warren to sign it?—And he did so.

Was it before or after you had obtained the signature of Warren that Kavanagh proposed you should give up the resolution?—Afterwards.

Did you, in fact, land upon the Irish coast afterwards?—Yes.

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What part did Warren take, or did he take any part, about that proposal of Kavanagh?—He was very well satisfied with it, sir.

To rescind the resolution he had previously signed?—Yes.

The SOLICITOR GENERAL. Did you, in point of fact, land in Ireland?—Yes.

How long after Kavanagh induced you to change the resolution did you see land?—Two or three days after.

Did you cruise about?—We did not do a great deal of sailing, because there was one day calm, or the greater part of it was calm.

Do you know on what part of the coast you did land?—At the time I did not, sir.

Can you tell me how you landed?—We landed in a fishing-boat.

The CHIEF BARON. Do you now know on what part of the coast you landed?—Yes, sir; very nigh to Dungarvan.

Do you know what day of the month it was?—Yes; the 1st of June.

The SOLICITOR GENERAL. Can you tell me about what hour of the day it was you landed?—Some time in the forenoon, sir.

How many men landed with you?—Some thirty odd people.

Was it all in the same fishing smack?—All in the same fishing smack, sir.

About how many of a crew were there in the smack when she came alongside?—I could not tell how many.

Did you see more than one man?—O, yes, sir; there were several men.

How far from the shore was it you got on board the smack?—Some three or four miles.

Did the smack land at any harbor, did she beach herself, or how did you get on shore?—She beached herself.

Were there houses near where you landed?—Yes; there were houses right opposite to where we landed.

How did you get out?—We jumped out into the water.

About how deep was the water?—It was over me when I got out, I being the last man. I was the last that got out.

When the other men got out how deep was it?—With some of them it was beyond their hips.

Do you know how you came to be last, or was it accidental?—It was accidental.

What did you do when you landed?—I simply walked along the road.

Was Warren with you when you were walking, or did he go any other way?—No, sir, he was not with me.

Did you observe did he go away with any one?—I did not see him after landing.

With whom did you go?—With a man named Costello.

Were there any other persons, whose names you can tell me, of your party?—The only other man with me was James Lawless.

What happened to you after you landed?—About two hours after being on shore I was arrested.

By whom?—By a policeman. There were two magistrates present at the time.

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Do you mean present on the road?—Yes; they were in a vehicle, a car.

Turn round and tell me if you see either of these gentlemen?—I recognize one of them, Mr. Redmond; the other gentleman was Mr. Fitzgerald, I think.

What did the magistrates do; were you taken into custody?—I was immediately handcuffed and taken to a place called Kiely's Cross barracks, I think.

And eventually where were you brought?—To Mount Joy prison.

Before that were you taken anywhere?—Yes, to Dungarvan.

Was this Costello who was the captain in the expedition the same Costello you mentioned at the beginning as having introduced you to James E. Kelly?—No, sir; a different person.

[The solicitor general here requested that five other prisoners, who were in custody, should be placed at the bar for the purpose of being identified. The prisoners, Patrick Nugent, James Coffey *alias* Nolan, Colonel Nagle, Captain Costello, and Lieutenant Fitz Gibbon, were accordingly placed at the bar.]

Do you see those five men?—I do, sir.

Do you know them?—I do, sir.

Name them. [A wand was then handed to witness, with which he pointed out each individual.]—This is Colonel Nagle, Captain Costello, Lieutenant Fitz Gibbon, Patrick Nugent, James Coffey *alias* Nolan; the first man here (indicating the prisoner on trial) is Colonel Warren.

The CHIEF BARON. Is that Patrick Nugent the same person who came on shore with the wounded people?—Yes, sir.

The SOLICITOR GENERAL. As to the other persons who landed, have you since seen them all in prison?—Not all of them.

How many of them did you see?—All but five.

The SOLICITOR GENERAL. I have no further questions to ask this witness.

The CHIEF BARON. I wish to ask the witness some questions, but perhaps it will be better to postpone doing so until some of the other evidence has been given.

The SOLICITOR GENERAL. Very well, my lord.

The CHIEF BARON. Prisoner, do you wish to put any questions to the witness?

PRISONER. I do not recognize the jurisdiction of this court at all.

The CHIEF BARON. Do you suggest to me any question to ask for you?

PRISONER. No, sir.

MICHAEL GALLAGHER, examined by Sergeant BARRY:

You live in Towney, in the county of Donegal?—Yes.
What are you?—A pilot.
Have you been long a pilot?—I have been a pilot for 25 years.
Where were you in May last?—I was at home.

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Do you recollect one night in May last seeing a brigantine?—I do.
Where did you see her?—I seen her coming to Sligo bay.
What o'clock was it when you saw her?—I suppose it was about 6 o'clock.
Was it in the morning or the evening?—It was in the evening.
Where were you at the time you saw her?—I was on my lookout.
On shore?—On shore.
What did you do when you saw her?—Well, I went home.
Did you go on board her?—Not on that evening.
Up to what hour did you see her?—Up to about 6 o'clock.
Not later?—No.
When did you see her again?—I saw her next morning, about 8 o'clock in the morning.
What day of the week was that, do you recollect?—It was on a Friday.
Where was she at that time?—She was reaching out from Sligo bay, coming across to our land, with the wind to the eastward.
What do you call your land?—The Donegal side, the northern land.
Was she near the shore at that time?—I suppose she was about a half mile across the bay.
The CHIEF BARON. How far from the shore was she?—When we first saw her she was within four miles off the Connaught coast, as we call it; she had to tack for our land with the wind to the eastward, and the time we boarded her she was about six miles off our land.
Sergeant BARRY. When you saw her the last time, did you board her?—Yes.
In a boat, was it?—Yes; in a small fishing-boat, less than two tons.
The CHIEF BARON. Where were you when you saw her the second time?—We saw her when we were on the lookout.
Were you on the land?—On land.
But on the lookout?—On the lookout.
What time was that?—As near as I can guess, it was about 12 o'clock in the afternoon.
Sergeant BARRY. Who went with you on board her?—I had six men along with me; five men and a boy.
Who were they?—James Browne, John Byrne, Patrick McGehan, Patrick Gallagher, Patrick Byrne, and John Haughey.
The CHIEF BARON. Was that all?—Yes; that's six.
Sergeant BARRY. You say this was about 12 o'clock when you boarded her?—It was, as near as I can go to it.
Where was the vessel when you boarded her?—She was about seven miles from land; she was then between Ennisduff and Innismurry island, in Donegal bay.
When you came alongside of her, what happened?—When I came alongside, between

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the two masts, I went on board the vessel and walked to the quarter-deck. The man in charge was on the quarter-deck, and I asked him where he was from and where he was bound for. He told me he was from Spain, and bound for Glasgow, with a light cargo of fruit. He told me he landed his captain on Thursday evening, for provisions for the ship, in Sligo bay. He asked me was I pilot; I told him I was. He asked me what I would charge for going across the bay with him to get his captain on Friday evening at 6 o'clock. I told him two guineas. He agreed for the two guineas, and he gave me charge of the vessel.
Did you then take charge of the vessel?—Yes; I went as the pilot of her then. After that, when we had settled everything about the pilotage, he went down into the cabin and called myself down. I didn't know whether he was the captain or mate.
The CHIEF BARON. But he called you down?—He called me down.
Into the cabin?—Yes.
Sergeant BARRY. What occurred then?—When I went down there were some men in the cabin; they asked me if I was a Fenian.
How many men were in the cabin?—I am on my oath, and I can't say how many men there were; there were more than these two men.
Turn round now, and see if you see any one here who was present on that occasion?—Yes; this man (pointing to the prisoner) was.
Did you know his name then?—No.
Did you afterwards know his name when you were in the vessel?—No.
But that man was there?—He was in the cabin.

You spoke of two men; what were they doing?—They were in the cabin when I went down.

Would you know the other of the two men?—I would.

What occurred, then, between you and the two men in the cabin?—He asked me was I a Fenian, and I told him I wasn't.

Who asked you that?—It was not that man, (the prisoner;) it was the other man. He asked me if there were any Fenians in our county; I said I didn't think there were any Fenians in the county Donegal. The man in charge then said "Swear him." I told him for God's sake not to swear me, as it didn't answer me, and as I was a man of age and had a large family.

What occurred then? Stating what family I had, I told them that I had my mother, wife, and seven of a weak family, and not to make me swear. The man in charge came back of me then, with a loaded pistol; I took notice of him when I was going down to the cabin, to take it off some place in the cabin. He told me to take the book, or, if I wouldn't, he would soon let me know how to take it, and let me see what he would do. I had to take the book and swear; whatever words he said I had to say after him.

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Who was it said the words to you?—It is not this man, (the prisoner;) it is that man there, (pointing to another prisoner named Nagle, who had been brought into the dock.)

The other man in the dock?—Yes; it was he handed me the book.

The CHIEF BARON. That man was identified as Nagle?

Sergeant BARRY. Yes, my lord.

The CHIEF BARON. Was he the person that said if you didn't swear he would let you see what he would do?—No, it was the man in charge of the ship said that.

What did Nagle say?—He only handed me the book, and whatever he mentioned I had to repeat after him.

You had to say whatever he said?—Yes; I got afraid.

Sergeant BARRY. Do you remember what he said to you, or the substance of the words?—I do; some of it. I had to say, "Not to tell any one on shore that I saw them in the cabin; or if I would take notice of anything in the ship or of them, not to report it on shore."

The CHIEF BARON. Was it that you were not to report if you took notice of anything that was on board the ship, or anything they were doing?—They said if I saw them do anything, or if I saw them in the cabin of the vessel.

Sergeant BARRY. Do you remember anything more they said?—Yes; "Not to give a description of the ship, or to say what size she was."

Do you remember anything more?—I do.

Did they say anything more to you in the cabin at that time; do you remember anything more of the oath?

The CHIEF BARON. Anything else you were not to tell?—I don't remember.

Sergeant BARRY. Did you take the oath, and did you kiss the book?—I had to do it.

Did anything more occur in the cabin at that time?—I don't think there did, only one thing, when I said the family was weak, and if I went in the vessel they might die, one of the two men gave me money; I don't know whether it was five shillings he gave me.

Did you then go on deck?—I then went on deck.

The CHIEF BARON. What do you mean by saying "if you were going in the vessel?"—I didn't know but that they would take me away.

Sergeant BARRY. When you went on deck, did you take charge of the vessel?—When I went on deck I had to take charge of the vessel and the hatches——

You were saying something about the hatches?—They were closed down, and nothing was to be seen except six or seven men working about the deck.

When you took charge of the vessel, in what direction did you sail her?—My own men——

The CHIEF BARON. Were there any more in the cabin than the person in charge of the vessel, the prisoner at the bar, and the man that was brought into the dock?—I can't say; I was "in terror," and don't know.

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Sergeant BARRY. In what direction did you sail the vessel?—My own crew stood off; they saw nothing there; they didn't see anything on board, or didn't take notice of what the parties did in the cabin.

Where were they?—They were on deck, and went into the galley-house, poor fellows, to warm themselves.

Did they leave after you came on deck?—When I came on deck they stood off for home, with nothing in the boat with them. It was a Friday, and the steward gave them meat; but they wouldn't eat it. He then threw a lump of pork into the boat to them; that was all they had with them.

In what direction did you sail the vessel?—I got the vessel on small canvas so that I

could put her in. I reached in towards Mullaghmore coast-guard station as near as I could, when I thought I couldn't give fair evidence if I was taken up.

How near to the land did you go there?—Within half a mile of the shore.

That station is in Donegal bay?—Yes.

Where did you stand to then?—I stood her out when I didn't see the coast guard come out from that station. I reached towards St. John's Point station, on the northern shore.

The CHIEF BARON. Was that from the Sligo or the Donegal side?—From the Sligo side.

You say you were within half a mile of the Donegal shore?—Of Mullaghmore station.

Then you stood out again from the Donegal side?—From the northern side.

Where did you first steer to?—To Mullaghmore station.

That is on the northern side?—Yes.

Where did you go then?—I reached her across for St. John's Point station.

Sergeant BARRY. Is Mullaghmore the southern point of Donegal bay?—It is.

And St. John's is the northern point of it?—Yes, the northen point.

Are they both on the Donegal side?—They are in Donegal bay, but Mullaghmore is in the south of it.

On what coast is Mullaghmore?—On the Sligo coast.

And on what coast is St. John's?—The northern point.

In what county is it?—In the county Donegal.

How near did you go to St. John's?—Within half a mile; and when I saw they didn't come out——

Who didn't come?—Seeing that the coast guard of St. John's Point station didn't come out, I let the vessel drop down until the Killybegs coast guard would see her. Killybegs station is a little to the west of St. John's Point, and I let her drop down, thinking the coast guard would come out.

Kellybegs, I believe, is further in in the bay than St. John's?—It is further to the northward.

How close did you go there to the shore?—Not within two miles.

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Where did you go after that?—When I didn't see any of them coming out, I asked the man in charge was it near the time to take the vessel to where the captain was to come. He told me it was; it was then drawing near six o'clock in the evening. We then set canvas on the ship and laid her across.

The CHIEF BARON. To where?—To Streeda coast-guard station.

That is south of Sligo again?—It is south to Sligo; it is between Sligo and Mullaghmore station.

Sergeant BARRY. That is inside of Innismurry island, I believe?—It is.

Did you come close to Streeda?—We did, close enough to land. There was no sign of any captain coming, and then we got sails aback on the vessel, and she was heaved to there until ten o'clock. About ten o'clock I was standing on the quarter-deck. I saw a hooker running down as if she came down from Killybegs, and she came under the stern of the ship. A man out of the smack hailed to the man in charge of the vessel. I didn't understand what was the language.

What occurred then?—The man in charge ordered the men to get the boat on deck into the water.

The ship's boat?—The ship's boat. The ship's boat then went to the hooker.

What did it do?—It took the man in the hooker on board the vessel; he then went down into the cabin, and he was in the cabin about half an hour.

Was anything said about who this man was?—Not at this time. He came on deck again and walked over to go into the boat. I asked the man in charge was that the captain, and he said, "Watch your own business, watch the vessel." I said, "I am long enough watching the vessel, and I will stop no longer." I then went forward to the rail of the ship and jumped into the boat.

What boat?—The ship's boat.

Had the strange gentleman that came on board got into the boat at the time?—He had. The man in charge ordered me up out of the boat again, and said that he had two wounded men to land on shore and send to hospital the next morning. That was the coming morning. Then I was dragged out of the boat on deck. I refused to come out of the boat when I was ordered, and I was dragged out.

Had you heard previously of any mention of two men being wounded?—I had; I forgot stating that. When I was about two hours on board the vessel, he told me these two wounded men had a fight on the morning before I went on board, and that one of them drew a pistol out, and that the two got wounded by the pistol-shot.

After you were taken out of the boat as you described, did the boat leave with the man on board?—It left the gentleman on board the hooker and came back to the ship again.

Did you hear any name given to that man on board?—No, I did not.

You remained on board the vessel until when?—I remained on board until one o'clock in the morning.

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What occurred then?—About one o'clock he told me to reach the vessel close to the shore, in order to land these wounded men and send them to hospital. I did so. I put the vessel in until I got but four fathoms of water, opposite the Streeda coast-guard station.

How close to the shore was that?—It was within a quarter of a mile of the shore.

When you got so close what occurred?—We got the sails back on the vessel, and the wounded men were sent down into the boat.

How many?—Two, and three more who were not wounded—that was five, and we pulled for the shore.

What occurred then?—When I was pulling the after oar, we pulled until we got into a beach of sand; when the boat struck on the sand I was carried out of the boat, and I stopped on the sand until one man was carried up on the bank.

The CHIEF BARON. How were you carried?—By one of the men that was in the boat. I then stopped on shore until one of the wounded men was up with me as far as the beach. I walked away then and left them there. I had to go 50 miles to my home, and I thought it was time for me to make for home. When I was going up a piece from the shore I met two of the Streeda coast guard.

Sergeant BARRY. Would you know either of the wounded men, or any of those who came on shore with you, if you saw them?—I think I would.

Turn round and see if you know any of them?—That man [pointing to Nugent] was on shore with me.

Do you know what his name is?—No.

Was he one of the wounded men?—No, he was not.

Do you see any of the wounded men?—Yes, that is one of the wounded men, (pointing to another of the prisoners named Coffey, *alias* Nolan.)

The CHIEF BARON, (addressing the prisoner.) Do you wish to ask the witness any questions?

The PRISONER. No, my lord; I will only call your attention, for the sake of law and justice, to his direct statement that he made on the 27th of May, when he swore he received no money, though he now swears he received five or six shillings. He also swore then that he was on the lookout on shore; he now swears that he was in a small boat. For the sake of law and justice, I wish you would analyze his evidence.

WITNESS. I would like to say a word; I reported that I didn't get my pilotage which I agreed on, the two guineas.

The CHIEF BARON. Prisoner, if there be anything else you wish to ask him, when we return you can mention it to me, and I will have it asked.

The PRISONER. In his first informations, which are the only genuine ones—the others are improved editions under the supervision of Mr. Anderson—he swore that the man in charge did not tell him what cargo was on board; that he saw eight or nine men on board, and that he told two coast-guard men whom he met that that was all he knew to be in the vessel; yet he now swears that the man in charge told him that she had a

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light cargo of fruit, and he swears a great deal more than he did in his informations.

WITNESS. I proved to nothing on board at that time; I only proved to the ship's crew.

The PRISONER. If your lordship would analyze his three informations and compare them with his evidence here to-day, you will find it is a tissue of perjury from first to last.

The court here adjourned for a short time. On resuming—

The CHIEF BARON asked the prisoner if he wished the entire witness's informations to be read, or only a portion of them.

The PRISONER. I only suggest, for the sake of law and order, that your lordship should analyze his informations and compare them with his evidence hereto to-day.

The CHIEF BARON. If you don't desire that the entire should be read, I will only read such portions as are, in my opinion, material. (To the witness:) You were sworn to an information made by you on the 27th of May, and to two more on the 15th of June?—Yes.

And you were sworn to another made on the 12th of October. In the information you swore on the 27th of May do you recollect stating this: After stating that on Friday, the 24th instant, you observed a vessel in Teelin bay, and that you boarded her to know if she wanted a pilot, and after telling what passed between you and the man in charge, you proceed to say, "He told me the vessel was from Spain, bound to Glasgow; but he did not tell me what cargo. I saw about eight or nine men on board, all, I believe, sailors. I was landed about half-past one o'clock a. m. on Saturday morning, the 25th instant, at Milk harbor, on the Connaught shore. The two wounded men were also landed at the same time. I received no money for my services, as the man in charge told me he had no money when the captain did not come. A short distance

from where I landed, about two miles, I met two coast-guard men, who made inquiry about the vessel. I told them all I knew; they said they had been watching her, and proceeded on towards the shore. I know nothing further concerning said vessel." Do you remember having sworn that?—I did. I could not give fair evidence on board the vessel.

It was in your informations you stated that you did know nothing more about the vessel except what you stated to the coast guard. Did you tell the coast-guard men all you know about it?—Yes.

Is that true what you swore there?—It is. I told them that the man in charge of the vessel said he came from Spain, and was bound for Glasgow. That was what he told me.

Did you tell the magistrate all you swore here to-day?—No. I was sworn in the vessel, and I could not give fair evidence there.

And that is the reason you didn't tell him what you told here?—It was.

What is the reason you state in your information that "I know nothing further concerning said vessel?"—I knew nothing of law. I never stood on the bench before, and I have a large family.

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It isn't what you told the coast-guard men, but what you swore in your informations I am now referring to. You swore two things in your informations: first, that you told the coast-guard men all you knew, and next, that you knew nothing concerning the vessel except that which you stated in your informations. These informations do not contain any of the matters that you stated here occurred in the cabin of the vessel. Can you state how that occurred?—I only reported to the ship's crew what the man in charge reported to be on board the vessel.

You were not asked what you reported to the ship's crew, but what you reported, as you term it, to the magistrate—you told them you stated all you knew, and that you knew nothing more concerning the vessel than what you had told the magistrate.—I told the coast guard——

What did you swear to the magistrate—did you swear this to him: "A short distance from where I landed, about two miles, I met two coast-guard men, who made inquiry about the vessel; I told them all I knew; they said they had been watching her, and proceeded on towards the shore. I know nothing further concerning the vessel"—did you tell them all you knew?—No, I didn't.

Did you know more about the vessel than you swore?—I don't know.

Did you tell the magistrate all you knew?—I told him I saw about eight or nine men on board, and that I got a report from a man on board that she had a light cargo of fruit.

Did you tell the magistrate what occurred in the cabin?—No; because I swore I would not do so.

The PRISONER. All he says in his informations is that he didn't know what the cargo was, and he didn't ask what it was.

The CHIEF BARON. He didn't say anything about the cargo.

The PRISONER. This very moment, my lord, not five minutes ago, he said he told the magistrate that she was laden with fruit. Yet in his informations he says "the man in charge told me that the vessel was from Spain, bound to Glasgow; but he did not tell me the cargo." He says now she was laden with a cargo of fruit.

The CHIEF BARON. You are very right. (To the witness:) Did you report to the magistrate that the vessel was laden with fruit?—Yes, I did.

This is what the magistrate took down, and what you are stated to have sworn, that you told him that the man in charge told you the vessel was from Spain, bound to Glasgow, but that he did not tell the cargo?—I stated that she came from Spain, and was bound to Glasgow, and that she was laden with a cargo of fruit.

Did you tell that to the magistrate?—Yes.

On the 15th June you swore another information: do you remember that?—There were only two reports before the report I made in Dublin.

And one of these was made on the 15th June?—Yes.

You made informations twice on the 15th June, one after you saw the men that were wounded; do you remember that?—I don't know.

After you went to Sligo jail, do you remember?—Yes.

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You made an information both before and after you went there, and you stated in one of these informations that you were on shore about seven o'clock in the morning, on the lookout, when you saw the vessel; that your own boat was then aground; that you took Pat Mechan's boat, with six men beside yourself; further down you stated that you didn't ask the name of the vessel, nor did you hear it: "I didn't ask the captain's name, nor did I hear it; I did not hear or ask the name of any man on board." That was your information of the 15th June.

The ATTORNEY GENERAL. Your lordship is passing over two or three lines at the foot of the third paragraph.

The CHIEF BARON. The discrepancy is in the information of the 27th May, and it may

have occurred from the magistrate not taking down all the witness said. In the information of the 15th June you state, "I asked him where he was from; he said from Spain, and bound to Glagow, with fruit?"—Yes, that's where it is.

In your informations of the 12th of October you state, "I remember a Friday, near the end of May last; I saw on that day a brigantine coming from Sligo bay; I had noticed her on the previous day; on the Friday I was in a row-boat, looking out as a pilot, when I saw her"——

WITNESS. That's in the wrong place there; I saw her on Thursday, and I boarded her on Friday. I was on shore at the time.

The CHIEF BARON. After stating that you agreed to pilot the vessel for two guineas, you proceed to say, "The brigantine seemed to be about 180 tons burden; I cannot say about what length she was; she was about 20 or 25 feet beam. I asked the name, but the man in charge would not tell me. I could not get the name of the captain."

The PRISONER. In his statement of the 15th June, my lord, he swears positively, "I did not ask her name, nor did I hear it; I did not hear or ask the captain's name, who was said to be on shore, nor did I hear it. I did not hear or ask the name of any man on board." So that in almost every line he contradicts himself.

The CHIEF BARON. You state in your information of the 15th June, "I did not ask her name, nor did I hear it; I did not ask the captain's name, who was said to be on shore, nor did I hear it;" while in your informations of the 12th October you say, "I asked her name, but the man in charge would not tell me"—how do you reconcile these two statements?—I told the magistrate that I did not see the name of the vessel, and that even if I did I would not be able to read it, as I was no scholar; and that I had to leave the vessel without the name of her, or of the captain, and without my pilotage.

You are asked how you reconcile these two statements—on the 15th June you swore that you did not ask the name of the vessel, nor did you hear it, and that you did not ask the captain's name, nor did you hear it; while on the 12th October you swore that you asked her name, but the man in charge would not give it.—In my report to the magistrate, I said that I could not see her name, and that if I did I could not read it; and that I could not get the name of the captain, as he was on shore.

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How is it that you say in one instance that you did ask for the vessel's name, and in the other that you did not ask it?—It may be put down wrong.

You stated that it was in the evening you saw the vessel?—Yes; the evening before.

Were you then on shore?—I was.

When you saw her the second time where were you; were you on shore also?—Yes, on shore.

How is it that in your information of the 12th October you swore "On the Friday I was in a row-boat, looking out as a pilot, when I saw her?"—That is wrong; I never reported that. I reported that I was on the lookout for the vessel on Thursday; that on Friday morning I saw her coming out from Sligo bay, that I pulled out with six men and went on board of her.

Is it not the fact that you were in a row-boat when you saw her?—I was on shore.

And not in a row-boat?—We pulled out in a row-boat.

What do you mean by saying that you went to two places on the Donegal shore for the purpose of seeing whether any of the coast-guard men would come out?—The reason is that when I saw these men swear me in the vessel, I knew I could not give fair evidence or report, and I could not get out of the vessel. I thought the coast-guard men would come out and take me on shore.

That they would come for the purpose of taking the vessel?—For the purpose of taking me away.

The PRISONER. I would call your lordship's attention to the first information, where he says that he met two coast-guard men, to whom he told all he knew.

The CHIEF BARON. Did you intend to tell the coast guard in case they came out, why you wished to leave the vessel?—I knew that if they came out they would know if there was anything wrong with the vessel.

Did you expect the coast-guard men to come out and take you from the vessel?—I thought it was strange that they did not go out in a boat, as it was their business to do.

Was it to get yourself safe from it you wished them to come out?—It was.

Would you not tell them what happened, if they came out?—Perhaps I would not tell them, as I had sworn a solemn oath in the cabin.

You stated in a part of your evidence that "I got the vessel on small canvas; I reached her in towards Mullaghmore station of coast guard as near as I could, when I thought I could not give fair evidence if I was taken up;" what do you mean by that?—When I was sworn not to report the vessel, I thought I would reach her close to the shore, and that the coast-guard men would come on board and would know what was the vessel.

Did you intend to give them fair evidence, or report as you call it, in case they did come on board?—No.

What do you mean by saying that you could not give fair evidence?—I didn't say that.

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That is what you did say—What do mean by it?—I thought that if the coast-guard men came out they would take myself out of the vessel.

What do you mean by saying you could not give fair evidence?—Because I was sworn not to report or tell anything I had seen.

Had you expected the vessel to come previously to your boarding her?—No.

Had you heard nothing about her?—Nothing since I was born. There is not a pilot on shore that can pilot a vessel along that coast with me; I have saved life and property there for the last 25 years.

The PRISONER. There is one point, my lord, I would especially call your attention to, and that is, that when leaving this imaginary vessel he says he met two coast guard men, to whom he says he told all he knew; yet he swears now that he never told them a word about the vessel, or what was done on board.

WITNESS. I beg your pardon. I told them what I was, and they said, "I suppose you were on board the schooner that was sailing about?" I told them that I was. I thought it was their duty to go and see after it.

The PRISONER. I say that the man who is guilty of being a suborner of perjury, as has been done here, should be in the dock where I now am.

The CHIEF BARON, (to witness.) Where have you been since your informations were taken?—Is it the first report?

The second?—I was taken to jail, away from my family.

When was that?—I was only three weeks at home, when I was taken to Lifford jail, and afterwards to Dublin.

Was that before the informations you made in October?—No; after it.

Where were you in October—how long were you in jail?—Six or seven weeks.

How long were you there after you swore your first information in May?—About three weeks.

Were you in jail when you made your second information?—No. Three days after I was in Sligo jail identifying the men, I was arrested.

From that time to this you were in jail, were you?—No.

How long were you there?—I am not sure.

The PRISONER. He was in Kilmainham jail with me for five or six weeks. He was brought there afterwards to identify me.

The CHIEF BARON. How long were you in jail—were you in jail when you made your last information, on the 12th October?—I was.

How long after that did you leave the jail?—Four or five days after. I made my report before I got out of it.

How long is it since you left jail?—That's the thing I can't say.

Is it a week ago?—I was in jail when I came to see them.

When did you leave it?—I am out of jail, as near as I can go, nine or ten weeks.

How long were you in jail?—Six or seven weeks.

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The PRISONER. He was brought to Kilmainham, my lord, and put in the same yard with me, where he heard my name called several times, and knew I was the party. He afterwards was taken away, and brought back again to identify me.

The CHIEF BARON. Were you in jail with the prisoner?—I was.

The PRISONER. And in the same yard?—I was.

The CHIEF BARON. Were you taken away from jail before you swore your last information?—Yes.

How long after you were taken from jail did you swear it?—Two months.

Were you told you would gain anything by making that information?—No.

Were you told you would be let out if you made that information?—No.

The PRISONER. The presumption is that if there were 20 men on board this imaginary vessel they would get two out of that large crowd to come here; but it is better they put up a man without brains. They have not a foot to stand on, I submit to the whole world.

The CHIEF BARON. Have you anything else you wish to ask this witness?

The PRISONER. No; I don't admit the jurisdiction of this court, and it was only for the sake of law and justice that I asked your lordship to analyze his evidence. I beg to return your lordship my most sincere thanks for doing so.

The CHIEF BARON. You are under no obligations in the world to me. I have only to do justice between you and the Crown.

JAMES NOLAN, examined by Mr. LONGFIELD Q. C.:

The witness, on coming on the table, said: I decline to give evidence.

Mr. LONGFIELD. On what ground? What is the reason?—I got my liberty some time ago to leave the country, and I have been brought back again, not of my will. I was taken prisoner in Liverpool and brought back.

Do you think it would injure you to give evidence?—I think it would.

Swear first, and then you can decline to give evidence when I ask you any question that you don't wish to answer.

(The witness was then sworn.)

The PRISONER. I protest against this man being compelled to swear and to give evidence.

The CHIEF BARON. The law requires that he shall be sworn, but it is my duty to tell you (to witness) that you are not bound to answer any question that may criminate yourself—that is, that may expose you to a prosecution.

WITNESS. I decline, sir, coming on the table at all.

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The CHIEF BARON. You are bound to come on the table, and you are bound to be sworn, but you are at liberty to withhold any answer which would give the grounds of a prosecution.

Mr. LONGFIELD. What is your name?—Daniel Coffey.

Have you gone by any other name?—James Nolan.

Are you a native Irishman?—Yes.

Did you go to America some years ago?—I did, sir.

The CHIEF BARON. You are not bound to give any answer that may criminate yourself. You are bound to state everything that is not calculated to criminate you. You are not bound to state anything that may.

Mr. LONGFIELD. I assure your lordship that I don't wish to get him to answer any question that might criminate himself.

The CHIEF BARON. I am quite certain of that, Mr. Longfield; I know you would be the last man to do it.

Mr. LONGFIELD. I have not asked any question, that could do so, but I am now about to ask a question of a different character. (To witness:) Did you at any time, when in America, become a Fenian?—I decline to answer.

Did you at any time in this year become a seaman, or go on board, in any capacity, a vessel called the Jackmel?—I decline to answer, sir.

Did you suffer from any wound lately?—I decline to answer, sir.

Mr. LONGFIELD. Does your lordship think I cannot go any further?

The CHIEF BARON. Certainly.

Mr. LONGFIELD. I am bound to admit that, if he claims protection, I cannot go any further.

The CHIEF BARON. These three questions show that the examination cannot be proceeded with.

JOHN HAUGHEY examined by Mr. MURPHY, Q. C.:

Where do you live?—Donegal.

What are you?—A laboring boy.

Do you know Michael Gallagher, the pilot?—I do.

Do you recollect on a Friday in May last going into a row-boat with him?—Yes.

What other men were in the row-boat with you?—Pat. McGehen, Pat. Gallagher, John Byrne, James Brown, and Patrick Byrne.

Where did you get into the row-boat?—At the quay of Towney.

Is that in the county of Donegal?—Yes.

Where did you row out to?—Mullockmore.

Did you go to any vessel there?—Yes.

Who went on board the vessel first?—Michael Gallagher, the pilot.

Did you go on board?—I did, sir.

How many of the other men went on board with you?—Three men.

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About what hour in the day was it that you went on board?—About 12 o'clock.

How long did you stay on board the vessel?—About an hour and a half?

Where did you stay the time you were on board the vessel?—At the rail.

Did you go below at all?—No, sir.

The CHIEF BARON. Did you go anywhere to warm yourselves?—I did, sir; to the galley-house.

Mr. MURPHY. Did you see, while you were on board, where Michael Gallagher went?—He went to the cabin.

Did you see who took him there?—No.

Did you see was there any person with him when he went down?—I was the third man that went aboard.

Was it immediately that you got on board you saw Gallagher going down to the cabin?—He was down when I went on board.

The PRISONER. This witness was in court during the examination of Gallagher, and heard every word he said.

The CHIEF BARON. That should not have been. The usual course is to have the witnesses out of court.

Mr. MURPHY. There is no rule on the subject, my lord.

The CHIEF BARON. No rule, but it is the usual course.

Mr. MURPHY. Unless your lordship makes an order——

The CHIEF BARON. I make no order; but I know, both as prosecutor and judge, that it is the practice.

Mr. MURPHY, (to witness.) How long after you went on board did you see him coming out of the cabin? He did not come up until I was just leaving.

How many men did you see on the deck of the vessel?—I did not see past seven men.

Did you see who was in command of the vessel?—No.

Did you know the name of the vessel, or learn it whilst you were on board?—No.

Did you see or know what the vessel had on board—what cargo?—No.

About what place did you land when you came ashore from the vessel; did you come to the same point you left?—I did.

Did you leave Gallagher on board?—Yes.

When did you next see Gallagher after that?—Two days after that.

The CHIEF BARON, (to prisoner.) Is there anything you wish to suggest, or to ask this witness?—No, my lord.

DANIEL JONES examined by Mr. BEYTAGH:

Where do you live?—Mount Edward, county Sligo.

Do you know the strand of Streeda?—I live convenient to it.

Do you take sea-weed there?—Yes.

Do you remember the morning of the 25th May last?—I do, sir.

Did you go down to the strand of Streeda that day?—I did.

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When you got to the strand did you see any one?—As I was going along for sea manure two wounded men were lying on the sand. I asked them what brought them there, and they said they came in at 12 o'clock that night.

The CHIEF BARON. I do not think the conversation between these men is evidence here.

Mr. BEYTAGH. In consequence of what they said to you, what did you do?—They asked me to go for a horse and cart.

Did you go?—I went to a man convenient—Michael Broom.

Did you get a horse and cart from him?—I did.

Were the men lying down?—They could not move at all.

When you came back were they there still?—Yes.

Where were they wounded?—One of them was wounded in the knee, and the other in the ankle.

What did you do with the wounded men when you came back?—The coast guards came down and put them on the cart.

Where were they taken to?—To Mr. Jones's.

Did you go with the cart and men to Mr. Jones's?—No.

You left them in the hands of the coast guards?—Yes.

The CHIEF BARON. Do you know the name of the coast guards?—The name of one of them is Burke.

The CHIEF BARON, (to prisoner.) Do you suggest anything to ask this witness?—Ask him, my lord, how far Milk Harbor is from Streeda.

The CHIEF BARON, (to witness.) How far is it from Streeda to Milk Harbor?—About a mile, sir.

How far is it from Milk Harbor to the place where the men were on the strand?—A mile, sir.

Anything more? (to prisoner.)—No, my lord.

JOSEPH CLARKE examined by the ATTORNEY GENERAL:

I believe you are a coast-guard man?—Yes.

At Streeda?—Yes.

Do you remember May last?—Yes.

Do you remember meeting Gallagher, the pilot?—Yes.

The CHIEF BARON. What date?—The 25th May.

The ATTORNEY GENERAL. What hour of the day?—About 2.15 a. m.

The PRISONER. My lord, this witness was also in the gallery during the examination of Gallagher.

The CHIEF BARON, (to witness.) Were you?—Yes.

That does not make him inadmissible.

The ATTORNEY GENERAL. Had you any conversation with Gallagher?—Yes.

After you saw him did you meet anybody else?—Yes.

Did you know the man you met?—He gave me no name at the time; he was a stranger to me.

Had you some conversation with him?—Yes.

The CHIEF BARON. Do you now know who he was?—Yes.

The ATTORNEY GENERAL. I don't ask you what he said, but did you take him into custody?—Yes.

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Where did you take him to?—The coast guard watch-house, near Streeda.

When you were in the station were any persons brought in there?—Yes; two wounded men.

Where were they wounded?—One through the thigh, and the other in the ankle.

Would you know either of these wounded men?—I won't be too positive.

Would you know the man you took into custody?—I think I would.

Do you see the man you took into custody?—That is he there. (The witness pointed to a man in the dock.)

The PRISONER. Were you in the court when Gallagher identified these men?—I don't know; but I would know that man.

The CHIEF BARON. Was that the man you took into custody?—Yes.

The CHIEF BARON. Who is that man?

The ATTORNEY GENERAL. Patrick Nugent, my lord. (To witness.) Do you see either of the wounded men in court?—I think that one there, but I won't swear positively to him. They were lying down in the station while I was there.

The CHIEF BARON. That is Coffey, I think.

The ATTORNEY GENERAL. Yes, my lord. (To witness.) Did you observe any ship cruising off the coast that morning?—I saw a small speck at daylight out in the offing, and we could not make out what she was.

Did you see a vessel cruising there the day before?—Yes.

On the 24th?—Yes.

What kind of a vessel was she?—A brigantine.

Did you remark anything about her rigging?—She had a double topsail yard rigging.

Was she near shore when you saw her on the 24th?—At 4 o'clock in the morning she was about two miles off Streeda station.

The CHIEF BARON, (to prisoner.) Do you suggest anything to ask this man?

The PRISONER. What did Gallagher say to him, or what did he say to Gallagher?

The CHIEF BARON. I think you are entitled to have that asked.

The ATTORNEY GENERAL. Had you any conversation with Gallagher?—I had.

What direction was he coming in?—From Streeda shore.

Was he walking or running?—Walking.

What did you say to him when you met him?—I asked him who he was. He said he was a pilot. I asked him where he came from. He replied that he was landed from a brigatine. I asked him was she the topsail-yard brigantine. He said she was. I asked him what she was. He said she was a Spanish vessel from Spain, bound to Glasgow. I asked him what cargo, and he said he did not know. He told me he was out fishing,

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and he boarded her. He was asked to take her into Killybegs, and when north of Killybegs he got orders from the man on board not to enter that harbor. He then stood over towards Streeda shore.

That is what Gallagher said?—Yes; and he said that one who was the captain or mate, or whoever was in charge, said they would land the pilot and proceed to Glasgow themselves.

Did he say anything more to you?—No, he did not.

He said nothing about wounded men?—No.

Nothing about the captain?—No.

And nothing about remuneration?—No.

There is nothing else in the information.

The CHIEF BARON. He did not tell you anything about what happened to him in the vessel?—No; that is all he told me.

The CHIEF BARON, (to the prisoner.) Is there anything else you would suggest?

The PRISONER. That is all, my lord.

BERNARD BURKE examined by the SOLICITOR GENERAL:

Are you one of the coast guard at Streeda?—Yes.

Do you remember the 25th of May last?—Yes.

Were you on duty on that morning on the shore?—I was.

What day of the week was it?—Saturday morning.

About what o'clock did you observe anything from the shore?—Between 5 and 6.

And what did you observe?—I observed a horse and cart going down to the shore, and on arriving there I met another man, a civilian, and two wounded men on the sand banks.

Did you go down after the horse and cart?—Yes.

The CHIEF BARON. What way was it going?—In the direction of where the wounded men were found.

You said you found there were two wounded men on the sand?—No; I did not say that.

Upon arriving at the shore you got another man, a civilian, and two wounded men lying on the sand banks?—Yes.

You followed a horse and cart going to the shore?—Yes; it was going to the shore, and I found the wounded men in the direction in which it was going.

The SOLICITOR GENERAL. Do you know the name of the man who had charge of the cart?—He is named Michael Byrne.

And do you know the name of the civilian who was on the shore?—He was of the name of Jones.

When you came up, were the wounded men talking? I do not ask you what they were saying, but were they talking to the civilians?—Yes.

Had you any conversation with these men? I do not ask you what it was, but had you?—Previous to going?

No, but when you were there?—Yes; I asked the man a question.

The CHIEF BARON. One of the wounded men?—Yes.

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The SOLICITOR GENERAL. Did you observe any marks on the beach?—There was a considerable lot of foot-tracks upon the banks between the water and where the men lay.

Did you observe how the men were wounded, or where?—I made an inquiry, and one man told me he was shot.

Did you observe any bandages on him?—Yes; one was bandaged round the thigh, and the other man round the ankle.

What did you do with these men, and the horse and cart?—I asked these men where they came from, and I got them conveyed to the watch-house.

The CHIEF BARON. The wounded men?—Yes.

The SOLICITOR GENERAL. Do you observe either of these men in court?—Yes. [The witness here identified the prisoner Coffey.]

Had you before that morning observed any vessel out in the offing?—Yes.

What build was she?—I saw a brigatine on Friday evening stand over towards our shore.

Stand over in what direction?—Towards the Donegal shore.

What was her build?—To the best of my opinion she was an American-built vessel.

Had she her sails set?—She had.

The CHIEF BARON. Do you know the build of an American vessel?—Yes, I have a knowledge of the build.

What did you say about the sails?—She had the sails set, and a double topsail-yard forward; she was under easy sail.

Were her motion and trim, and her sail altogether, such as would be adopted by a vessel that was waiting in the place between these two coasts?—Yes.

The SOLICITOR GENERAL. How long during that day did you so observe her?—I saw her on Friday morning about nine o'clock; she was over then on the Donegal shore.

About how far from where you were?—Well, about 14 or 15 miles.

That is over at St. John's Point?—Yes.

Is Killybegs a little to the north of that?—Yes.

And what is the position of Mullaghmore in that bay? That is the southeasterly point?—Yes.

And all between that is the bay?—Yes.

And you saw across it?—You have a good view across it.

You say she was at St. John's Point in the morning?—In that direction.

Just describe what you observed during the day.—On that morning I saw her over there. I did not see any more of the vessel until that afternoon. She then stood over close under our shore.

Did she come close to your shore?—Yes.

The CHIEF BARON. About what time was that?—Between four and five in the evening.

The SOLICITOR GENERAL. Were you on duty at that time?—I was.

How near did she come?—I should think she came within about two miles of Streeda

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Point, and she took them from that and stood away in the direction of Donegal shore again. That night, between nine and ten, she stood over on our shore again.

And was that the last you observed of the vessel?—Yes; that is the last I observed of her.

The CHIEF BARON (to the prisoner.) Can you suggest anything to ask him?—No.

PATRICK BROWNE examined by Sergeant BARRY:

Where do you live?—At Ballinagoulmore, near Helvick.

Do you know Patrick Whelan?—I do.

He does not speak English?—No.

Do you remember, on the 1st of June last, being in his boat?—I do.

Were you fishing?—Yes.

The CHIEF BARON. You were in his boat?—Yes.

Did you ever speak to him in English?—I did.

Does he speak English?—He could not tell a story, but he would say a word or two.

You can speak Irish?—I can.

Sergeant BARRY. How many were in the boat?—Seven altogether.

The CHIEF BARON. What kind of boat was she?—She is a boat of about five or six tons.

Was she half-decked?—No, sir; an open yawl.

Sergeant BARRY. Do you recollect seeing a vessel coming alongside you?—Yes, sir.

What hour of the day was that? About what hour?—It was about—we had no watch with us. We used to be puzzled about the hour of the day. It was about six o'clock when we left our own harbor, and we had two reefs going out to the nets, about three miles from Helvick.

The CHIEF BARON. Was it before the middle of the day?—It was past the morning, and it was in the day.

Sergeant BARRY. What kind was the vessel?—She was a brig, sir, with white sails.

The CHIEF BARON. Was she a brig or a brigantine?—A brig, I think; but I do not know the difference.

How big was she?—I heard the men say of her that she was up to 300½ tons.

Sergeant BARRY. When she came alongside, what happened?—We had 20 nets, altogether about 40 fathoms long, and when she came up to us some men who were engaged on board of her asked us had we no fish. We told him no, we had no fish, for the day was very rough.

What happened then?—Whelan told us that he himself would not go with the boat to the vessel for fear the boat would be broken. The man on board asked us what we would charge for landing two men. Patrick Whelan then told Collins to go up to the sheets and say he would land them for £2; Collins was one of our men. The man on

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board told us to drop the nets and come alongside, and that he should give us the £2; so we dropped the nets. We had four of them drawn into the boat when he was speaking to us. We dropped the nets there and left them in the sea after us, and went to the vessel; we went alongside. His own boat was level with the sea—a long yawl he had—and he told us to come alongside. We came round the stern, and there was no name on the vessel, and we ran alongside her, and he pulled up his own boat out of the way. He threw down a cable, and one of the men from the vessel jumped down and fastened it. The cable was not made fast until one of the men from the brig jumped down and made it fast to the beam. There was a great rolling in the bay while he was there, and we had to bear against the side of the vessel for fear she should lie down upon the small boat; and I had the helm against my breast, keeping the boat out from the side of the vessel, for fear she would get under the side of the vessel. She was covered up above the water-line, and Whelan was trying to keep her off with a pole. "Run up," says Whelan to me, "and tell him to send down the two men, or else we will go away." I went up then on board and told him to send down the two men, that we would be going away, and they told me it was time enough.

The CHIEF BARON. You were holding on to the vessel when he said that?—I had a hold of her on the left-hand side.

Sergeant BARRY. What were you standing on?—I was on the deck of the brig.

When you got on the deck did you see any men?—Four men altogether. I saw the man who spoke to me first there. I came down. Whelan said, "Are they coming down?" "I do not know," says I. I remained a little time in the boat, and upwards of 30 of these men came down and jumped into the boat. "We are all lost now," says Whelan. "We are," says I, "but how can we help it?" The boat took a lurch into lee water, because they came down on one side of the boat. "Get the bucket," says Whelan to me, "and bail out the water as fast as you can." Whelan then told them to come to one side of the boat, and he told them to manage themselves in the boat as well as they could, for fear the boat would be turned. "What will I do now?" says Whelan. "Get them into the coast-guard station," says I, "as fast as you can, and leave them there." So we did. We came in towards the coast-guard station, and they asked Daniel Collins what this house was, and he told them this was the coast-guard station, and they would not go out there.

The CHIEF BARON. Who asked what house it was?—Some of the men.

What did they say to that?—They said they would not go there.

Sergeant BARRY. What then?—Whelan then told Collins to ask them would they go up to the town of Dungarvan. Collins asked them, and they said they would not. "Well," says Collins, "there is a patch of strand there, and we might as well beach you there." "That is the place," says one of the men; "let us go there."

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What part was that?—About a quarter of a mile from our own port, between Ballinagoul port and Cunnigar house.

Did you pass near the coast-guard station going to that port?—We did, sir.

Did the men say or do anything then?

The CHIEF BARON. They did not go to Ballinagoul port?—No; we landed in three and a half feet water outside Ballinagoul port.

About how far from the port?—About a quarter of a mile.

And how far from the coast-guard station?—It was upwards of a mile.

As you were going along, did you pass the coast-guard station?—Yes.

When passing it, did the men say or do anything?—No, sir.

How were they in the boat?—They were sitting down.

In what water did you beach the boat?—In about three and a half feet of water.

When the boat was beached, what became of the men?—They jumped out and went off on the strand. Some of them took off their trowsers, but one man stripped into his skin. Some of them only took off their trowsers. One took off his trowsers and drawers and turned up his shirt.

Did they go away then?—They did, sir.

And you went back again?—Yes; we went out and took up our nets.

The CHIEF BARON. Were you paid the £2?—Yes.

Who got the money?—I got it from a man in the boat.

How much did you get?—£3; and I gave it to Whelan; and they gave 10*s.* to Whelan on the strand.

Sergeant BARRY. Was the £3 given before you left the vessel, and when they were in the boat?—Just when they were balancing the boat.

The CHIEF BARON (to the prisoner.) Is there anything you would like to ask?

The PRISONER. No.

Sergeant BARRY. Do you know any of the men?—No, sir.

The CHIEF BARON. Describe the way they were sitting when passing the coast-guard station.—They were sitting as I am sitting.

Would their bodies be seen above the gunwale?—O, they would be seen. Their heads were up; some of their heads were up.

Did they alter their positions from the time they got into the boat?—They were sitting all the time.

DANIEL COLLINS examined by Mr. LONGFIELD, Q. C.:

Do you remember the 1st of June last being in Whelan's boat?—I do.

Who were in it with you when you went to draw the nets?—Patrick Browne, Whelan, myself, and Dan Collins.

Did you go alongside the brig to take some men off that day?—We did, sir. We dropped our nets first. We had four of them out before the vessel came alongside us.

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Did a number of men go on board you?—They did.

Did you take them on shore?—We did.

About how many men altogether did you see going into the boat?—Well, I did not count; but a boy counted them. There was about 30.

When they got on board were you in danger of being swamped?—We were in danger from their coming on board. They came down plump together, and brought the water into the boat. We hoisted our sail, and fetched them home.

Did you run in towards Dungarvan harbor?—We came in to our own beach, and when we were coming in they saw a white house; they asked me what house that was, and I told them the coast-guard house.

Was that inside Helvick?—Yes.

And then they told you they would not go ashore there?—Yes; and I asked them would I take them up to Dungarvan town; they told me not. I then said there was no place only to beach the boat on the strand, and they told me that was the right place.

When passing Helvick Head, were they sitting or standing in the boat?—They were sitting on the nets.

Were they in the bottom of the boat?—There was ballast in the boat, and they could not sit lower than they were sitting.

Did you beach her there?—We beached the boat in three and a half feet of water.

Did they all get out of the boat then?—They did.

Look around and tell us can you remember the face of any one in the boat?—No, I do not, only the last one.

Look round and see if you see him?—I do. (The witness here identified the witness Buckley.)

Have you any doubt that that is the man?—No; I am sure he is the man.

They all scattered then?—They all went ashore.

The CHIEF BARON (to the prisoner.) Can you suggest any question to ask this witness?

PRISONER. No, sir; I will only remark that it is peculiar that the only person the man can identify is the so-called informer.

GEORGE JONES examined by Mr. MURPHEY, Q. C.:

On the 1st of June last were you stationed as a coast guard at Helvick?—Yes.

Do you know the man Patrick Whelan?—I do.

Do you know a fishing-boat belonging to him?—Yes.
On that day did you see his boat passing Helvick station?—Yes.
At what hour?—Between 11 and 12 o'clock.
When passing the station could you say who were in her?—Only the fishermen.
Did you see where she put into the coast?—Yes.
About how far from Helvick station?—About three miles.

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Did you lose sight of her from the time she passed the station until she put into the coast?—No, sir.
When she put in did you see any persons get out of her?—Yes, between 30 and 40 men.
Did you see what they did after landing?—Yes; they were putting on something like their shoes, and brushing themselves up.
Where did they go to then?—Up to the cliffs, to a place called Breen.
Did they go all together?—No; they started in threes and fours. There is a sort of way over there.
Did you keep them in view?—Yes, sir.
They soon got out of your view?—Yes; they soon got out of our view altogether.
The CHIEF BARON. Was any one else with you?—Yes; there were three men besides me.
Are you able to say whether these men were sitting in the boat?—Yes; because they could not be seen. If they were standing up their heads would be above the gunwale.
Were the fishermen standing up?—They were working the boat.
What kind of boat was this?—She was between a six and seven ton boat—a small-class hooker.
Had you ever been in her?—No, sir; but alongside of her often.
Are there seats in her?—There are four thwarts about a foot from the gunwale.
If they were sitting that way each could be seen outside the gunwale by you, or might they have escaped your observation?—If the men who were in the boat were sitting down in the bottom of the boat they could not be seen.
If they were sitting upon the seats could they be seen?—Yes.
The CHIEF BARON (to the prisoner.) Do you wish to ask the witness any question?
PRISONER. No.

ANDREW ROCHE examined by Mr. BEYTAGH:

You are a farmer?—Very little.
You have some land?—Yes.
Do you live at a place called Ring?—Yes.
In the county of Waterford?—Yes.
How far is that from a place called Helvick?—About two or three miles.
Is there a place called Ring Church there?—Yes.
Do you remember a day in June last when certain people came to your place?—I do not know any day in the month.
Was it a day in June?—Yes.
Were you working in your farm or garden?—Yes, sir.
Did a couple of men come to you?—Yes, sir.
Just look round and see, do you see either of the men?—I do. (The witness here identified the prisoner on trial.)
Was there another man with him when they came to you?—Yes. (The witness here identified the prisoner Nagle.)

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The PRISONER. Allow me to state how this man identified me. He was brought to the prison door and told, "There's Warren. Is that the man?" "Yes, sir." "That will do." That was done by the Crown solicitor.
The CHIEF BARON. Did that happen?—Yes.
Mr. BEYTAGH. What happened?—I was brought to the prisoner, and he was brought out.
The CHIEF BARON. Were you asked was that the man?—No, sir.
Mr. BEYTAGH. Did you know him when you saw him?—I did not remember
The CHIEF BARON. When you saw him at the prison door did you know him?—(This question was not answered.)
Mr. BEYTAGH. When you saw him in the prison, did you know him as the man you saw at Ring?—I did not know him at that time.
And when you saw him again did you recollect him as the man you saw?—He shook hands with me.
Where?—In the jail.
The PRISONER. In explanation of that I may say it was but a joke, to show how perfectly indifferent I was.
The CHIEF BARON. Did you know he was the man until you shook hands with him?—No; he went away—I did not look at him.

Do you know him now?—I do.
Do you see the other man there (Nagle)?—I do.
Are these the two men who came to you?—Yes.
Where did you see the other man afterwards?—In the prison.
Did you know him the way you knew the other?—Yes.
Did you know him when you first saw him?—I did.
How did you know the one and not the other?—Because he came out, and then went quick in again.
Were they both brought separately to you?—Yes.
When they came to you at Ring what did they say to you?—How many miles is it to Youghal? I said about 12 miles.
Did they say anything about a car?—They did. He said could I get a car to go there? I said I had a pony myself, and said I would hire it.
Did they ask the price?—Yes.
What did you say?—Five shillings.
Did they agree to give you that?—Yes, sir.
Did you tackle your pony to a car?—No, but to a cart.
Did you at any time observe the state of their dress?—Yes; it was quite wet.
How high up was the dress wet?—About the middle or so.
As you were going along did you say anything to them about where they were?—No, sir.
Did they say anything about being at sea?—They said they were fishing and the ship took fire, and then a vessel going to England picked them up.
How did they get out from their boat did they say?—By a fisherman's boat.

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How did they get out of the boat?—She came into the harbor and struck the strand.
And they jumped out?—Yes.
The CHIEF BARON. Do not ask him the questions in that way.
Mr. BEYTAGH. What did they say about how they got out of the fisherman's boat—that they jumped out into the water?—Yes.
The CHIEF BARON. I must beg of you not to lead him in that way.
Mr. BEYTAGH. How far did you go with them on the cart?—To Youghal.
Did you come to the bridge?—Yes.
Did you go on the bridge?—Yes.
Did anything happen there?—Yes.
What happened?—They were taken.
Who took them?—A policeman.
Were you taken?—Yes.
Do you know the name of the constable who took you?—No.
Mr. BEYTAGH. I wish to ask your lordship did you take down that the reason he did not know Warren was that he was taken away suddenly.
The CHIEF BARON (to witness.) Whether you recollected this man in the jail or not, are you able to swear that the two men who came to you and went upon your cart were the two men who were taken by the constable on the bridge?—Yes.
Was any part of their dress wet when they asked for the cart, and were they the same men who came to you with part of their dress wet and asked for the cart?—Yes.
The PRISONER. He swore on the table he did not know me in Kilmainham. He swore deliberately he did not know me when he saw me in Kilmainham after being brought to the cell door and told we were the men.
The CHIEF BARON. What he now says is, whether he knew you or not, two men came to him in the field with their clothes wet, and he brought them to Youghal, and they were taken by the police, and they were the same two men.
The PRISONER. If you analyze his evidence as you did that of Gallagher, you will find it is made up to order, and supervised by the Crown solicitor also.

Police Sergeant JAMES NORRIS examined by the ATTORNEY GENERAL:

Do you remember the 1st of June last?—I do.
Where were you stationed on that day?—In the town of Youghal, county Cork.
Were you on the Youghal bridge that day?—I was.
Did you meet any vehicle coming over the bridge?—I did.
That is the bridge over the Blackwater?—Yes; about a mile from the town of Youghal.
In which direction was that vehicle going?—It was going in the direction of Cork, apparently from Waterford.

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How many were in the cart?—There were two men, and a man driving.
Do you see in court either of the two men?—(The witness here looked round the court and said that the two men in the dock were in the cart, and the third man was driving.)
Did you see the man who was driving the cart?—I did. I heard his name. (The

witness here pointed to the previous witness, and said, That is the man, Andy Roche, who was driving the cart.)

Did you do anything when you met the cart?—Yes, I stopped it.

Did you observe anything about the clothes of the men in the cart?—Yes; I observed that they were wet and sprinkled with sand.

Did you say anything to them?—I did.

What did you say?—I asked them how far they had come; the man holding the paper (the prisoner Warren) said they came from Dungarvan.

Did you ask him any other question?—I asked him where he belonged to, and he said to Cork.

Did you ask him anything more?—I asked him his name, and he replied that it was John Donovan.

Did you ask the second man what his name was?—Yes, and he said William Palmer.

Did you ask the man who gave his name as William Palmer any other question?—Yes, I asked him whether he also belonged to Cork, and he said yes.

Did you then make any other observation?—I did; I made some observation about the appearance of their clothes.

Do you recollect exactly what they said?—I cannot recollect.

When you made that observation, was anything said either by Palmer or Donovan?—Yes. One of them, I cannot say who, positively, said they were out on a fishing excursion, and that their vessel took fire, and they were taken off by a vessel or boat, and they had to land in a fishing-boat.

Did he say anything more?—No, except when I asked a question.

Were they both present?—They were. I asked whether the vessel was a brig or a schooner, and Donovan said, "No, a brigantine."

The CHIEF BARON. Did you mention what vessel you were inquiring about—whether the vessel they were fishing in or the one in which they came up?—I don't know, my lord, whether they understood clearly, but I intended to ask them what description of vessel took them off.

The ATTORNEY GENERAL. After that conversation what then occurred?—I then said that I was a constable of police.

The CHIEF BARON. Were you in regimentals?—I was not in regimentals. I said I had an intimation of a party having landed at Dungarvan on that morning under suspicious circumstances, and that I should take them into custody, and that they should go with me to the police barrack; and they said "very well."

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The ATTORNEY GENERAL. What did you do then?—I then arrested them and proceeded to search them.

Did you arrest Roche, the driver?—I did not.

What did you do with him?—He came with them to the police barrack; I searched them on the bridge to ascertain whether they had any arms about them.

I believe they had none?—They had none.

Did you make any further search when you arrived at the police barrack?—I did; I searched the prisoner who gave his name as Donovan, at the police barrack. I found on him a shirt collar, a small scarf and scarf-pin, and three or four half-crowns.

Nothing else?—Nothing else that I remember.

Did you then search the man in the dock who gave his name as Palmer?—Yes.

What did you find on him?—I found articles of dress—some shirt collars.

Have you got the shirt collar?—I gave it up to my officer.

PRISONER. On the part of the prisoner Nagle I protest against his case being brought forward on my trial for the purpose of influencing the jury against me.

The CHIEF BARON. The case against you is that you were a confederate in one common conspiracy in which Nagle was a party, and the law is that when the existence of the conspiracy is once established, the acts of one conspirator can be given in evidence against another. That is the state of the law, and that law also prevails in America.

The ATTORNEY GENERAL. What else did you find on Nagle besides articles of dress?—I found a pocket-book containing a sovereign, a bunch of small keys, and articles that he had for dressing—a hair-comb and hair-brush—and papers with penciling on them.

(Paper handed to witness.)—Was that one of the papers you found?—That is one of them.

Is it in the same state in which you found it?—Yes, except the initials on it, and these marks I put on it, and the writing in ink, which was put on by my officer in my presence.

The original was all in pencil?—Yes.

And it is now in the same state in which it was then?—It is.

(Another paper was handed to witness, who said that he also found it on him, and that it was in the same state as when he found it, except as to the writing in ink. The pencil writing was the same as before. Another paper was then handed to witness, who said that he also found this paper on the man who gave his name as Palmer.)

Is that in the very same state as regards the penciling?—Yes.

Did you find anything else?—Nothing else.

Where did you leave the prisoners then?—At the police barrack.
The Attorney General then said he had no further questions to ask the witness.
The CHIEF BARON then addressing the prisoner, said: The acts of one conspirator, if
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they are acts in furtherance of a common design, not otherwise, are evidence against all the conspirators, and if you wish to ask the witness any questions you can do so.
PRISONER. I have no question to ask, my lord, but that is a very novel idea.
The CHIEF BARON. It is a long-established law, and prevails in America as it does in England and Ireland.
The court then adjourned to next (Friday) morning.

FRIDAY, *November* 1, 1867.

The court sat at 10 o'clock a. m., this day, when the examination of witnesses for the prosecution was resumed.
The prisoner said: My lord, before you hear any more evidence, I would suggest some discrepancies between the direct evidence of Buckley and his informations which were given in Mount Joy prison.
The CHIEF BARON. I will recall Buckley for the purpose of examining him. I intend asking him some questions which appear to me to be proper for me to ask him, on your behalf, as you are not defended by counsel. I intend doing that at a subsequent period of the trial, and if you would, in the mean time, point out what you wish to have asked, it would perhaps be more convenient to do so then.
The PRISONER. That will answer better, my lord.
The CHIEF BARON. Take a note of what you desire to have asked on his examination.

BERNARD BURKE recalled and examined by the CHIEF BARON:

You are one of the coast guard of Streeda?—Yes, my lord.
Were you long stationed there?—Two years.
Did you know Gallagher, the pilot, before the occasion of his having been engaged in this vessel?—No.
Do you know whether or not he was a pilot?—I did not know him at all.

JOSEPH CLARKE recalled and examined by the CHIEF BARON:

You are one of the Streeda coast guard?—Yes, my lord.
How long were you at that station?—Three years and a half.
Did you know anything of Gallagher before this occurrence?—No.
Did you know of his having been a pilot before that?—No.
The PRISONER. My lord, I wish to know something of his character—whether he was ever charged with stealing on shipboard.
The CHIEF BARON. I will ask Gallagher himself that.
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(To the witness.) How long have you known Gallagher?—I knew him for several years.
What has he been at before?—He was at sea.
What was he doing at sea?—Fishing.
Anything else?—No.
Did you know him to have acted as a pilot before this occurrence?—Yes; he was a pilot.
Has he "pilot" marked on the sails of his vessel?—He has.
Can you read or write?—No.
Is he known there as a pilot?—He is; he is a pilot.
I am going to ask you another question; you can answer it or not, as you think fit. Were you ever a Fenian?—No.

JAMES PATTEN examined by the ATTORNEY GENERAL:

You are head constable, I believe?—Yes.
Where are you stationed?—At Killybegs.
That is in the north of Donegal, I believe?—Yes.
Do you know Michael Gallagher?—I do.
What is he?—A pilot and fisherman—a pilot.
Is he known by any name as a pilot?—He is known of the Teelin pilot.
The CHIEF BARON. What is that? Is that the name of his place, or a place?—That is the name of the place he lives in.
The ATTORNEY GENERAL. You know he acted as a pilot?—Repeatedly I saw him act as a pilot.

Sub-constable THOMAS IRWIN examined by the SOLICITOR GENERAL:

Are you a sub-constable?—Yes.
Where are you stationed?—At Dungarven.

Do you remember the 1st of June last?—I do.
Did you arrest any men on that day?—I did.
Look around and see if you see any of the persons you arrested.—I don't.
Did you see Buckley examined here yesterday?—I did.
Was he one of the men you arrested?—He was.
Where did you arrest them?—I arrested them on the road leading from Dungarvan to Youghal. There are several roads, but this is the most easterly road, and the most convenient to the bay.
Where did you arrest them?—At a place called Ballywilliam Cross.
At what o'clock in the day did you arrest them?—I think it was about half-past three o'clock in the day, as near as I can go.
Did you arrest other persons with him at the time?—Yes; I arrested a man who gave his name as James Lawless.
The CHIEF BARON. Was he with Buckley?—He was with Buckley.

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The SOLICITOR GENERAL. Did you arrest any other persons at the time?—Yes; I arrested another man who gave his name as Augustine Costello.
The CHIEF BARON. Was he also with Buckley? Yes, my lord.
The SOLICITOR GENERAL. Would you look around now and see if you see either of the other men now?—I see Buckley.
Did you see Costello yesterday in court?—I did not. [The prisoner Costello was here placed at the bar.]
Look around now and see if you see any one you know.—That is the man who gave his name as Augustus E. Costello.
Who was the magistrate you brought these men before? Were there any magistrates with you at the time of their arrest?—Yes; two magistrates were with us.
Who were they, or what are their names?—Mr. Redmond, the resident magistrate, and Mr. Henry A. Fitzgerald, of Seaview.
Did you see Mr. Redmond here?—I did.
Were the men you arrested on the road or off the road, or where did you find them?—Buckley, Costello, and Lawless were on the road.
What did you do with them when you arrested them?
The CHIEF BARON. In what way were they going when you arrested them?—They were going in the direction of Youghal, my lord. We took them up on a car and drove up to Kelly's Cross police barrack, and gave them in charge to the police, who had a number of others in custody at the same time.
The prisoner, in reply to the chief baron, said he did not intend to ask the witness any questions.

MICHAEL GALLAGHER recalled and examined by the CHIEF BARON:

I wish to ask you a question which you need not answer—you are not bound to answer it, if you don't like. Were you ever a Fenian?—No, I never was.
Had you anything to do with the rebellion proceedings that occurred in this country this year?—No.
The CHIEF BARON, (to the prisoner.) Do you desire that any question should be put to the witness? You said something of his character. That cannot be asked of another, but it can be asked of himself. You are entitled to ask him of his own character, but you cannot ask him of another man's character.
The PRISONER. I would wish to ask him if he was ever charged with stealing a pair of boots on shipboard.
The CHIEF BARON. Were you ever charged with stealing a pair of boots on shipboard?—Never in my life, or anything else in my life, since I was born.
The PRISONER. His denying that question so pointedly, I need not ask him any other question.

JOHN JOSEPH CORYDON examined by the ATTORNEY GENERAL:

I believe you were an officer in the federal army?—I was.
The CHIEF BARON. In the northern States?—Yes, my lord.

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The ATTORNEY GENERAL. What rank had you in that army?—Lieutenant.
Did you ever become a member of the Fenian confederacy in America?—I did.
At what time?—In the summer of 1862.
Did you take an oath?—I did.
What was the nature of that oath?—To establish an Irish republic in Ireland.
The CHIEF BARON. Where did you take the oath?—In America.
In what year was that?—In 1862.
The ATTORNEY GENERAL. In the State of Virginia, I believe?—Yes.
Were you acquainted with the organization of the ranks in that confederacy?—I was.
What were the different ranks?—There was no distinction in America, but in Ireland there was a distinction of ranks.
The CHIEF BARON. No distinction of ranks you say in America?—No.

The ATTORNEY GENERAL. Were there any offices in the confederation held by Fenians?—Yes.

What were the offices; mention some of them?—The leading man in America was John O'Mahony.

What ranks did they hold?—Captains and colonels.

Were there centers?—Yes.

What else was there?—Sub-centers, and State centers.

Anything else?—Well, I couldn't say. There were centers, and State centers, and delegates. State center was the highest position held in the State.

How long did you remain in the federal army?—Until 1865.

Was that at the time the American armies were disbanded?—Yes.

Where were you at that time; what part of America were you in?—New York.

During the time you were in New York, did you attend any Fenian meetings?—Several.

Where in New York did you attend these meetings?—At headquarters, and at 814 Broadway.

The CHIEF BARON. Where were the headquarters?—At one time in Chatham street, at another time in Duane street, and latterly in Union square.

The ATTORNEY GENERAL. At the time they were in Duane street, who were the principal members of the Fenian confederacy?—John O'Mahony was the leading man in America, and James Stephens in Ireland.

Did you meet O'Mahony at Duane street?—Yes.

Do you remember the month of August, 1865?—I do.

Did O'Mahony send you anywhere in that month?—He sent me to Ireland.

The CHIEF BARON. Were you sent by O'Mahony?—I was.

The ATTORNEY GENERAL. To whom did O'Mahony send you?—To James Stephens.

Did you go to Ireland?—I did.

To Dublin?—Yes.

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Did you attend any Fenian meetings in Dublin when you arrived here?—I did.

Tell me the names of some of the persons you met at the Fenian meetings in Dublin?—I met James Stephens, Brophy, Kickham, and Luby, and several more there.

Did you meet a Fenian of the name of Colonel Kelly in Dublin?—Frequently.

What was his Christian name?—Thomas.

Did you get any orders in Dublin from Colonel Thomas Kelly?—I did.

What were these orders?—On the 19th November I received orders, I would say dispatches, from him to O'Mahony, in New York.

To take to New York?—Yes.

Did you take these dispatches to New York to O'Mahony?—I did.

Were you then sent back to Ireland from New York?—I was.

The CHIEF BARON. By whom?—By O'Mahony.

The ATTORNEY GENERAL. Where was Stephens when you left Ireland?—He was in jail.

Did you hear anything at Fenian meetings about Stephens after you returned to America?—I did.

What did you hear?—I heard he was out of jail.

The CHIEF BARON. You heard it at a Fenian meeting, you say?—Yes, my lord.

The ATTORNEY GENERAL. What were you sent back to Ireland for, and who sent you back?—O'Mahony sent me back, with dispatches.

For whom were these dispatches?—For Stephens, or Colonel Kelly if I could not see Stephens.

To whom did you deliver these dispatches?—To Colonel Kelly.

Did you then get any dispatches from Colonel Kelly?—I did; the night after I arrived I received dispatches from Colonel Kelly to proceed back to New York.

The CHIEF BARON. And you went off again to America?—Yes, my lord.

With the dispatches?—Yes, my lord.

The ATTORNEY GENERAL. I believe you returned afterwards to Ireland before September, 1866?—I did.

Were you employed by the government in September, 1866?—I was.

To give information with regard to the Fenian conspiracy?—Yes.

Where were you in September, 1866?—Liverpool.

Did you attend any Fenian meetings in Liverpool?—Several.

How long did you remain in Liverpool?—Until February, 1867.

What time in the month was it?—Some time about the 17th, I think.

Did you get any orders from the Fenian leaders in Liverpool as to your movements in February, 1867?—Yes.

What were these orders?—We were to come from England to Ireland to be ready for a fight.

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The CHIEF BARON. From whom did you receive these orders?—From the acting leader then in Liverpool, whose name was Beecher, the deputy of Colonel Kelly.

The orders were to come to Ireland?—Yes, and to remain there until we would receive other orders.

The ATTORNEY GENERAL. And did you come to Ireland?—I did.

The CHIEF BARON. When was that?—About the middle of February, 1867.

The ATTORNEY GENERAL. Under whose orders were you placed in Ireland?—Myself, and all the other Americans were lodging in different parts of Dublin.

Under whose orders were you placed?—Colonel Kelly, McCafferty, and others, and all the leading men.

Was McCafferty in Dublin then?—He was not at that time; and he was arrested a few days after I came.

That was about the 24th of February, I believe?—I am not sure.

Did you get orders after you came to Ireland from any person here?—A week before the rising.

From whom did you get the orders?—From Godfrey Massey and Edward Duffy.

What were the orders you got from them?—They ordered me to go to Millstreet, in the county of Cork, and see the center of that town.

What was his name?—Kearney; and he would see that I would get to Kearney to Colonel O'Connor.

And when you saw him what was to be done?—I was to tell him of the rising that would take place on the 5th March.

What was to be done when the rising would take place?—My instructions were to take part with O'Connor in the rising.

What plan was to be adopted?—A concentration of the forces, to tear up the rails and break banks.

Where was it arranged that this rising should take place?—In London.

Where in Ireland was it to take place?—In three provinces—Leinster, Connaught, and Munster.

You said that Colonel Thomas Kelly was to have commanded?—He was the leading man.

Did you know another Colonel Kelly in America?—I did; Colonel James Kelly.

The CHIEF BARON. What rank was he?—Lieutenant colonel.

Was he lieutenant colonel in the army?—Yes, in the Irish brigade.

Did you know him yourself personally?—I did, my lord.

The ATTORNEY GENERAL. Did he hold any rank in the Fenian conspiracy?—He did. He was colonel; he was a member of the examining board; he was president of the examining board.

What do you mean by the examining board?—Five or six military men examining young fellows to see if they were competent to come over here.

Do you know the prisoner?—I do.

How long have you known him?—Since 1861.

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What is his name?—John Warren.

Where did you first meet him?—In New York.

What was he when you first met him?—He was recruiting for his company as captain.

The CHIEF BARON. In the American army?—Yes, my lord.

The ATTORNEY GENERAL. Was he a captain?—He afterwards was.

Did he continue a captain in the American army?—Yes; for about a year and a half, or perhaps a little better.

At the end of the year and a half what happened?—He was discharged the service.

The CHIEF BARON. Discharged?—Yes, my lord.

What time was that?—About September.

The ATTORNEY GENERAL. 1862 or 1863?—1862.

Did you know the prisoner to be a Fenian?—Yes, I did.

The CHIEF BARON. When first?—In 1862.

The ATTORNEY GENERAL. When he was in the American army?—Yes.

The PRISONER. I protest, my lord, against the introduction of matter connected with my conduct in the American army.

The CHIEF BARON. I cannot, in point of law, reject the evidence of the circumstances under which you were at the time, or about the time, you were alleged to be a member of the Fenian confederacy.

The PRISONER. I wish you would then ask him what was my character as a soldier and a gentleman in the American army.

The ATTORNEY GENERAL. What was the prisoner's conduct as a soldier and a gentleman in the American army?—Very good.

Had he any Fenian employment in the American army?—No.

After he left the army did he acquire any position in the Fenian organization?—Yes

What was that position?—That of State center in the State of Massachusetts.

In what year did he hold that office?—In 1863.

Did you see him in New York in 1865?—I did.

Where did you meet him in New York that year?—In Chatham street, or rather at the corner of Chatham street, on the steps of a hotel.

Did you meet him in Duane street?—Yes.

What party of Fenians did he belong to?—At first he belonged to the Stephens and O'Mahony party, and until deprived of the State centership of Massachusetts.

Did he continue to belong to the Stephens and O'Mahony party after that?—No.

What party did he join then?—The Roberts party.

The CHIEF BARON. Were there two parties in the Fenian organization?—Yes, my lord; there was a split.

The ATTORNEY GENERAL. Was he engaged in any position or employment when he was in New York?—No.

Was he connected with any newspaper?—Some time before the war broke out—about 1859—he was; he, in company with——

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The CHIEF BARON. You first knew him in 1862?—Yes; I heard he was writing for this paper.

The ATTORNEY GENERAL. Did you hear it from himself?—Yes; I used to get this paper.

The CHIEF BARON. He wrote, you say—for what paper?—For the Irish Messenger.

Was that a Fenian paper?—No, it was not.

The ATTORNEY GENERAL.—Was he in any position when he was head center for the State of Massachusetts?—I was told he kept a grocer's shop, but I am not sure of it.

Had you any conversation with him on Fenianism?—O, yes.

Did you know a newspaper called the Daily News, in New York?—Yes.

Do you know he had anything to do with that paper?—He was reporter for it for some time.

The CHIEF BARON. When was that?—In 1855, I think.

He was a reporter for it for some time?—Yes.

(To the prisoner:) Would you suggest anything I should ask this witness?—No. There is one discrepancy between his evidence and his informations. He swore in his direct evidence that I was State center for Massachusetts in 1863, whereas in his informations he said 1865.

WITNESS. I beg your pardon.

The PRISONER. I suppose it was written in mistake, like Gallagher's informations.

WITNESS. There were two State centers since 1863, when he was State center.

The ATTORNEY GENERAL. The witness says in his informations that the prisoner was a prominent member of the Fenian organization in the American army. He also says, in 1865 I met him in Duane street; he was then head center. (To the witness:) How long was he State center for Massachusetts?—There were two State centers since he was State center—Daniel Donovan, who was over here in Ireland, and the other, who is now acting as State center in Massachusetts, a man named Doody.

Mr. Justice KEOGH. He says it was in 1865 in his informations.

The ATTORNEY GENERAL. And he says it was 1863 in his evidence.

The PRISONER. I call your lordship's attention to his original informations.

The ATTORNEY GENERAL. The prisoner is quite right, my lord.

The CHIEF BARON (to the witness.) What do you say now?—Twice he was turned out of the position of State center; the man that got it then was Daniel Donovan; he occupied it in 1864, and when his year of office was up, the next man was Doody, who is now occupying the position of State center of Massachusetts.

The ATTORNEY GENERAL. That is since 1864?—Yes.

The CHIEF BARON. When was Doody appointed?—In 1865.

The ATTORNEY GENERAL. Is he State center now?—Yes; he is continued.

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The CHIEF BARON. Do you recollect that when you swore your informations you said 1865?—That is a mistake. I said I met him in New York in 1865.

What do you say is a mistake?—I think it is the date of when it was taken.

Was it that you mistook the date, or that it was taken down in error?

The PRISONER. Of course it is all a mistake of the transcriber; the witness made no mistake at all. He knew from some source, my lord, that I was going to ask him the question.

The CHIEF BARON. He was then the head center for Massachusetts?—Yes, my lord.

When did you meet him in Duane street?—In 1865.

Was he then occupying the position of head center?—No; for he was then connected with the Roberts party.

You were right, then, in saying that you met him in 1865?—Yes; he was then writing for the Daily News.

You say that he was then a head center for Massachusetts; that could hardly have been a mistake of the person who took it down, as it referred to the time you met him in New York.—He was not the head centre in 1865—Doody was; there were two parties, the Roberts and O'Mahony parties.

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The CHIEF BARON (to the prisoner.) Do you suggest any other questions to be asked of the witness.

The PRISONER. I will ask him a few questions as to my recruiting in New York. Are you sure I recruited in New York?—Yes; you recruited some in New York and some in Charlestown.

Where in New York did I recruit?—In David's island.

Where did I recruit—had I a tent, or room, or office there?—Yes; you had a recruiting tent in City Hall Park, New York.

Was I associated with any one?—Yes; a great many officers of the regiment—Captains Condon, Welsh, O'Neill, and almost all the officers of the regiment except those whom it was necessary to keep in David's island.

Don't you know that I was a resident of Boston, and that I arrived from it at New York on the 14th August, 1861, with 101 men whom I had recruited at Boston? I never recruited in New York, nor did I ever attend a Fenian meeting there in my life.—He was a captain in my regiment, my lord, and he did not recruit in New York.

I arrived from Boston, where I resided, at New York, with a company of 101 men, which I recruited in Boston, on the 14th August, 1861. I never recruited in New York; and I will make it a point to write to the governors of these States to show that I never recruited men either in the city or the State of New York.

The CHIEF BARON. That is of no use to you at present. (To the witness:) Did he recruit in the places mentioned by you?—He did, my lord; there were three companies recruited by him in Boston; but as a good many of them deserted on their way to New York, he had to get his companies recruited in New York.

What you say, then, is this: Is it that he brought some of them from Boston, and recruited others in New York?—Yes, my lord.

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The PRISONER. Permit me, my lord, to introduce a witness on this question.

The CHIEF BARON. By and by you can do that, as soon as the Crown closes their case. I cannot receive any witness from you until the case from the Crown is closed; then you will have every opportunity of doing so. Be good enough to have your witnesses in attendance, so as not to have any delay.

The PRISONER. My witness, my lord, is Mr. Nagle, a member of the same brigade. He is a prisoner; but if he is produced he can prove that I neither recruited in New York, nor had I a tent there.

The CHIEF BARON. He is one of the parties against whom an indictment was found, and, as a rule, the law prevents a party in such circumstances from being examined. I am afraid you can't examine him.

The PRISONER. I simply raise the question for the sake of security. As I said yesterday, I ignore the jurisdiction of this court—I don't recognize it.

The CHIEF BARON. That is no matter. What you said yesterday will not pervent me hearing any suggestion you have to offer.

The PRISONER. I know that, my lord.

Acting Sergeant FRANCIS SHERIDAN examined by the ATTORNEY GENERAL:

You are an acting sergeant of police?—I am.

You remember the 5th of March last?—Yes.

Where were you then on duty?—I was on duty at Milltown, in the suburbs of Dublin. I was sergeant then.

How many constables had you with you?—There were three.

Where did you patrol that night?—We patroled down Milltown road and through Milltown village, in the county of Dublin.

Did you meet any body of men on that night?—Yes; about twelve o'clock, 1,000 men came armed with rifles, fixed bayonets, pikes, and revolvers.

Were they marching when you met them?—They marched four deep, in military array.

Had they anything with them?—They had a van in front, and an outpost in charge of it.

Was there any person apparently acting as commander?—Yes; there was.

What was his name?—Lennon.

Did you hear him give any orders to that party?—Yes; he gave orders for the men to stop, and they made prisoners of us and disarmed us.

Were you in uniform at the time?—The men and myself were in uniform, and on duty.

Had you arms?—Yes, we had swords and revolvers.

Did you do anything with these arms?—They disarmed us by the orders of the man in command.

Where were you placed when you were disarmed? In the center of the party with rifles and pikes.

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They had rifles and pikes?—Yes, sir.

Where did the party move who had you placed in the center?—They proceeded across Milltown bridge, through Dundrum and Windy harbor.

Where did you proceed from Dundrum?—We went to a place called Old Connaught. We went first from Dundrum, and then to Stepaside.

Is Stepaside in the county of Dublin?—It is, sir.

The CHIEF BARON. Old Connaught is in the county of Dublin?—It is in the county of Dublin, my lord.

The SOLICITOR GENERAL. Did you hear Lannon give any order to the men who were in the party?—Yes; he ordered them to proceed to the front of Stepaside police station, and then they made an attack on the station.

He ordered the riflemen to come forward?—Yes; in front of the constabulary police barrack.

Was this when you had reached Stepaside?—Yes, sir.

What did you observe done then?—A number fired into the front of the barrack, and demanded of the constabulary in the barrack to surrender in the name of the Irish republic.

Did the men surrender?—The party outside broke the windows and put straw in through them to burn the police out, when they would not surrender in the first instance.

Did the constabulary come out?—The insurgents got a sledge and broke in the door.

What occurred when the door was broken?—The constabulary were brought out from the barrack and made prisoners along with us.

How many?—I believe four men or five; I think four men and a sergeant.

What was done then?—I saw the party made prisoners of. The party who made prisoners of the constabulary put on the constabulary accoutrements.

What do you mean by accoutrements?—Knapsacks and belts.

Did the party move on then?—They took the rifles out of the barrack and moved on in the direction of Bray.

Were the constabulary who were taken out of the barrack taken away with you?—Yes, sir.

Did they go into Bray?—They stopped at a place called Old Connought, this side of Bray. They then sent a party to the town of Bray to know whether they could proceed there, and word came back that they could not proceed, as the military were coming on the train from Dublin. It was so conjectured among themselves; we heard them say so. They then returned to Glencullen constabulary police station. The riflemen were ordered in front of the station. They demanded the constabulary in charge of the station to surrender in the name of the Irish republic. The constabulary refused, and then the party outside fired into the barrack.

Who fired in?—A number of the insurgents outside.

What did the constabulary who were inside do?—They fired out upon them.

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Was any one hit or wounded?—Yes; there was one man shot convenient to me; one of the insurgents was wounded from the barrack.

What was done when the man was wounded?—We were ordered forward, to be exposed to the fire; we were put in front of the fire from the barrack. Some of the insurgents were behind us.

The CHIEF BARON. Were there not any of them between you and the barrack?—No, my lord.

Were you put between them—between the wall and the police station?—Yes, my lord.

The SOLICITOR GENERAL. What was done with the man who was wounded?—He was ordered by the man in command to be taken to the van that had the ammunition in it.

What became of the men in the barrack in the end?—The sergeant who was along with us was compelled to go over to the window and speak to the constable in charge of the station.

The CHIEF BARON. Was that the Milltown man?—No; the Stepaside constable, my lord.

He was compelled to go over where?—To the barrack window, and to speak to the constable in charge inside.

To say what?—That if he would surrender the arms and ammunition in the barrack he would give the prisoners he had outside in exchange for the arms and ammunition.

The SOLICITOR GENERAL. Did they do that?—They did. They gave the arms and ammunition and other accoutrements belonging to the constabulary from the barrack.

And were you released then?—We were, sir.

The CHIEF BARON. Prisoner, can you suggest any question to ask this witness?

PRISONER. No, my lord. I don't know any of these movements he talks of. I never minded them, my lord.

The CHIEF BARON. Mr. Attorney General, have you any further parol evidence?

The ATTORNEY GENERAL. No, my lord, we close as regards porol evidence; but we wish to put in some documents.

The CHIEF BARON. It will be better to postpone doing that until I have put some questions to the witness Buckley.

The ATTORNEY GENERAL. Very well, my lord.

DANIEL J. BUCKLEY recalled and further examined:

The CHIEF BARON. Now, prisoner, if there is any question you wish to suggest that I should ask the witness, or if you wish to ask him any question yourself, you can do so. Perhaps it is better for you to wait until I have put the questions which occur to me to ask him, but you may do so now if you prefer it.

The PRISONER. I presume that the same discrepancies in his evidence have occurred to your lordship's mind as have occurred to me, and I would sooner wait till your lordship has done.

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The CHIEF BARON. I will ask the witness some questions as to points which occur to me as desirable to inquire into, and you can afterwards put any questions to him that you think right. (To witness:) Have the goodness to state again the oath which you took on becoming a Fenian.—Not to divulge the secrets connected with the organization, as well as not to divulge anything connected with the expedition.

Was that the form of the oath?—That was the form of it.

Do you remember what you swore in your informations? I believe you swore one information on the 12th September, and another on the 10th October—did you swear any others besides those?—I believe those are the only informations.

The ATTORNEY GENERAL. He made only two, my lord; but the original information was re-sworn by him in the presence of the several prisoners.

The CHIEF BARON. In your information of the 12th September you mention that the oath administered to you was that you should obey those who would be placed over you, and that you would not divulge the secrets of the expedition?—That did not belong to the oath.

What did not belong to the oath?—That I would obey those placed over me; that did not belong to the oath taken by me.

Then that was not part of the oath?—No, sir.

Where was it you met the parties who accompanied you on the expedition?—Canal street. I went to Broadway first, and afterwards to Canal street.

What did you mean by saying in your information that you had to go down to Grant street?—That was to take the steamer there.

But you did not embark from Grant street?—We took the steamer at Canal street.

Is that near Canal street?—The wharf is there.

Is Grant street near Canal street.—I never said Grant street; I made no reference at all to Grant street; it was Canal street, not Grant street.

In your information you state that Grant street was the place?—That is a mistake.

PRISONER. I am very well acquainted in New York, and it contains no such street as Grant street.

WITNESS. I did not say Grant street; I said Canal street.

The CHIEF BARON. I observe in your information you do not mention anything about Colonel Phelan, Colonel Devan, Colonel O'Doherty, nor about James Lawless?—No, my lord.

How did you happen not to recollect those persons?—Not being well acquainted with them, and having to recollect some 40 odd names.

You said in your evidence here that three colonels went on shore before the wounded men left the ship?—Yes.

And you said that two of the colonels went on shore with Burke?—Yes.

Then there were five colonels in all went on shore?—No, only four.

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How did it happen you did not recollect the names of these persons when making your information?—In giving that information I did not recollect those names.

Did anything occur to make you recollect them afterwards?—Yes, sir.

What occurred?—Simply getting some paper and writing down those names to recollect them.

Did you receive any information as to who they were before you wrote down their names on the paper?—None, sir.

Was it after you made your information that you recollected those names?—Yes, sir.

Was your memory refreshed in any way?—Yes, sir; I felt a great deal excited on the occasion of giving that information.

How was your memory refreshed?—By having more time to look over them.

Had those men been arrested at the time you gave your first information?—Yes, sir.

Did you know they were arrested?—I did.

Did you know who they were?—Yes, sir.

Did you learn their names?—Oh, I knew their names long before that time.

What I ask you is, did you learn the names of those persons who were arrested before you gave your information?—I had known them before that, sir.

Attend to the question. Did you know who were arrested at the time you gave your first information?—I did, sir.

Did you know them by name—who they were?—I did, sir.

And, if you did, how did it happen that among those who were arrested and named to you there should have been a number of persons whose names you forgot?—They were not all arrested.

The ATTORNEY GENERAL. The party were not all arrested, my lord; Doherty, Shea, Devan, and Phelan were never arrested.

PRISONER. My lord, the witness was in the same prison with us, and exercised in the same yard up to the 12th of October, when he gave his information.

The CHIEF BARON. I am speaking now of the persons whom he did not name in his information, but whom he named yesterday.

PRISONER. Quite so, my lord. I intended to call your lordship's attention to it as a remarkable coincidence.

The CHIEF BARON, (to witness.) There is another point: you stated in your evidence yesterday that the arms which were on board were packed in large-sized boxes, that there was a Spanish name upon them, and that they were placed between decks; you also stated that there was ammunition in one of those boxes which was opened, containing about a million and a half of cartridges, as you understood; and you then stated, after describing the artillery, that the cases in which the arms were were opened during the voyage?—Yes.

And that the arms were so placed as to be ready to distribute?—Yes.

And you were asked how they were so placed, and you said they were put in twos and threes, and that they were rearranged in the boxes—in the same boxes?—Yes.

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That was your evidence yesterday. I shall now read what you stated in your information: "We had a quantity of arms on board; I could not say what quantity; they were packed in cases as pianos and sewing machines; they included a quantity of carbines and rifles." In your statement here your said they were revolvers. You then proceed to say: "These boxes were consigned to a firm in Cuba. Many of those cases were opened during the voyage, and the arms packed in smaller boxes." In your evidence yesterday you said they were opened, and the arms laid in twos and threes in the same large boxes. In your information you say they were opened and the arms packed in smaller boxes; how do you reconcile those two statements?—My lord, I stated in my evidence yesterday that the arms were placed in two boxes, one outside of the other, for more safe-keeping; on repacking and rearranging they were only left in the inner box.

PRISONER. The witness also said, in his first information, that he did not know the quantity of arms on board; in his evidence yesterday, he swears to 5,000 at least.

The CHIEF BARON. How do you reconcile that?—In making reference to the quantity yesterday, I merely intended to be understood as stating far short of the number of arms actually on board. It is true I did not know the exact quantity.

That is to say, you yesterday merely intended to indicate that there was at least that quantity, but you could not tell how much?—Yes.

Why did you not make any mention of the ammunition in your information?—I did not recollect it at the time.

You say you had opportunities of seeing between decks?—Yes.

How was the ammunition placed between decks—was anything placed under it?—Yes, there were some boxes under it.

Were there any over it?—None over it. There were arm boxes under it.

Was it placed in the part of the ship in which you slept?—No, it was some 20 or 25 feet from me.

But you passed through it occasionally?—I passed it often.

How did you happen to forget it when making your information?—The question was not asked of me. There are other things in connection with the expedition that I have not given any evidence of, because I was not asked.

What are those things—do you recollect them now?—Yes, I do, sir.

What are they?—The building of a raft was one.

What about that?—This raft was intended, with two other boats, to hold the people in case the ship was pursued. These were to be launched, and the ship blown up or set fire to.

Do you recollect anything else?—No, sir.

You mentioned yesterday that you heard what passed in the cabin between the officers and Gallagher, the pilot?—I only heard part of what passed.

Why did you say nothing of that in your information?—I never thought of that, sir.

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Explain how it occurred. You were describing in your information what occurred with reference to Gallagher; you stated that while in Sligo bay you took a pilot on

board, who remained with you some two or three days. At this time you were giving information for the purpose of sustaining a charge against those people; didn't you think it was material in order to sustain that charge, especially against Warren, against whom particularly you were examined—didn't you think it material to show that Warren was present at the time that oath was administered by force to Gallagher?

The ATTORNEY GENERAL. His information was not made in the first instance against Warren.

The CHIEF BARON. It is headed, "The Queen *vs.* Warren and Nagle," and the caption states "The information of Daniel Buckley, who, being duly sworn, &c., &c., in the presence and hearing of the prisoner, John Warren." I am reading from the printed copy of the information furnished to me.

The ATTORNEY GENERAL. This information was originally made on the 12th September; it was resworn on the 10th October, in the presence of the prisoner.

The CHIEF BARON. The one I am reading from is dated the 12th of September.

The ATTORNEY GENERAL. The prisoners were not present on the 12th of September.

Mr. Justice KEOGH, [referring to the original information of the 12th of September.] I find that there is no caption to the original information, such as appears in the copy furnished to us.

The CHIEF BARON. Then the copy furnished to us is inaccurate in that respect. (To witness.) In your information of the 12th of September, you stated the names of various officers in the expedition. Now, what I ask you is this: When those persons were named by you as persons whom you charged with being in that vessel engaged in illegal acts, how did it happen that you should not have recollected a matter so material, when you were swearing against them at all—how it was that you forgot a matter so material as the transaction that occurred between them and Gallagher?—My lord, the information given in the first place by me in October——

The CHIEF BARON. No; in September?—Yes, my lord; that information was incomplete; there were many things I did not recollect, and that I could only recollect afterwards when they were brought to my mind.

And this was one of the matters you did not recollect?—Yes.

What I ask you is—can you account or explain how it should have escaped your memory?—When I was only a few days there, I desired the solicitor to come and take my evidence; previous to that I had not allowed my mind to rest on the matter so much as to recollect that.

You then sent for the solicitor to give information?—Yes.

To give information against the persons that were on board?—Yes.

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How did it happen, when you were thinking of what information you could give to the Crown against those persons, you should have forgotten a thing so material?—The same thing happened yesterday; I forgot names yesterday whom I had mentioned in my informations previously.

I am not now speaking of names, I am speaking of a transaction. Were you reminded of that in any way?—No, sir, I was not.

Did you learn the substance of Gallagher's information at all?—No, sir.

At any time?—No, sir.

Did you ever see his information?—No, sir.

Did you ever learn what he stated?—No, sir.

You heard of his having given information?—I did not, till some two weeks ago.

Did you hear two weeks ago what he told?—No; I was told nothing further than that he had made an information.

Did you ever read his information?—No, sir.

Was it ever read to you?—No, sir.

In your information you state nothing of the council which you mentioned yesterday as having been held before their arrival at Sligo, and at which it was determined to attack the town of Sligo?—That I neither recollected, my lord.

You did not recollect that?—No, sir.

Tell me now what it was was determined, or rather what was considered, with reference to going to the Western islands?—To re-provision the ship there. The captain stated we had 120 gallons of water on board, and that that quantity was sufficient to carry us to the Western islands.

Were they to go to the Western islands on their way to the United States, or were they to go to the Western islands and then come back to Ireland?—They were to go to the United States.

What were they to do there?—To lay before the Irish the experience gained in connection with the expedition.

I think you said that Warren agreed to that at first?—No, sir.

I understood you to say he at first dissented, but afterwards agreed?—Yes.

And afterwards he concurred in rescinding the resolution?—Yes.

How did that come about—how did it happen that that was adopted by Warren, who at first dissented—how did it happen that he was induced to forego that determina-

tion?—I represented to him the frivolous nature of the entire expedition, and the foolishness of landing in Ireland under the circumstances.

Yes, I know; and you say those representations induced him to acquiesce in the prudence of going back to America?—Yes.

Why did he afterwards change, and decide upon landing?—I don't know, sir.

Did they take any time to discuss the matter before landing was resolved on?—There was no discussion at all; there were only three dissenting voices.

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That is, dissenting to the proposed landing?—Yes.

Who made the suggestion?—Kavanagh.

I think you said he made it suddenly—that he turned round suddenly and asked the men would they follow him if he landed?—Yes, it was done very suddenly.

Were all the men assembled at the time?—The majority were, except two or three of the crew.

Where did this take place—in what part of the ship?—On the quarter-deck.

Was the suggestion discussed before they determined on adopting it?—There was not a word of discussion.

Did they adopt it at once?—Yes, sir.

The CHIEF BARON. Now, prisoner, is there anything you can suggest to me to ask him?

The PRISONER. There is one thing you have omitted, my lord. He stated in his information "I think I am a native of Ireland." In his evidence yesterday he swore "I am a native of Ireland, of the province of Munster."

The CHIEF BARON. That is so. (To the witness.) Were you in doubt whether you were a native of Ireland when you swore your information?—I really was, sir.

PRISONER. I wish to refer to another point; I believe your lordship was about to refer to it, but it escaped your memory afterwards; the witness swears in his information: "In Sligo bay we took a pilot on board, and he remained with us two or three days." Gallagher swears he was there only a few hours.

The CHIEF BARON. You are perfectly correct. I did not observe it, I confess. (To witness.) How do you account for that?—I thought at first that he remained on board two or three days, but I was not sure, and I was not willing to allow my affidavit to remain as in the first case, fixing it at three days; I was not willing to substantiate it, and, after considering and looking over the matter, I prefer saying what I can substantiate.

What is that?—That he was one day on board.

You say now he was one day on board?—Yes.

Why did you say three days in your information?—I allowed a doubt; I said two or three days.

The CHIEF BARON (to prisoner.) Is there anything else you can suggest to ask the witness?

PRISONER. Yes, my lord; I have now to suggest the most important point of the whole. Yesterday he swore he was 25 years of age. I hold in my hand a certificate of naturalization, by which he was admitted a citizen of the United States on the 10th of October, 1855, so that, if his swearing be correct, he was then 13 years of age.

The CHIEF BARON. What age is he stated to be in the certificate?

PRISONER. He must be 21 years of age at least, my lord, when admitted a citizen.

The CHIEF BARON. If he were 21 years of age in 1865, that would make him now about the age he stated yesterday.

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PRISONER. He was 21 years of age in 1855, my lord; the date of the certificate is 1855.

The CHIEF BARON, (referring to certificate.) Yes; you are right. I thought it was 1865.

PRISONER. He must have been 21 when he got that certificate, so that he must be at least 33 years of age now. It must have been perjury for him yesterday to swear he was 25.

The CHIEF BARON (to witness.) How do you explain that?

WITNESS. I beg your honor's pardon; I said I did not know my exact age, but that I thought I was at least 25.

PRISONER. His evidence was direct, my lord—"I am 25 years of age."

The CHIEF BARON. Is there anything else you wish to ask him?

PRISONER. There is nothing else, my lord.

The ATTORNEY GENERAL. There are some documents which I propose to give in evidence.

The CHIEF BARON. I have some doubt as to their admissibility in evidence against the prisoner.

The ATTORNEY GENERAL. Under these circumstances I will not give them in evidence.

The case for the Crown then closed.

The CHIEF BARON, addressing the prisoner, said: You are now at liberty to state whatever is proper for your defense, and to offer any evidence in support of it that you are prepared with.

PRISONER. My lord, I simply intended to have produced Nagle to prove that I never, as Corydon stated I did when he first became acquainted with me, recruited in the State of New York, or had any tent in the Park of that city. He also swore that I was State center for Massachusetts in 1865. Now he conveniently forgets it. I do not press the point; it is a matter of veracity. I want to show up the man.

The CHIEF BARON. These are matters which I think are of very little consequence to you.

The PRISONER. I withdraw my request, as I believe no respectable jury in Ireland would believe a word he says.

The ATTORNEY GENERAL. I have no objection; the prisoner can produce any witness he likes.

The CHIEF BARON. It is quite immaterial to him. Do you desire to make any statement?

The PRISONER. I had intended, at the commencement of the trial, realizing the position I am placed in by the absence of counsel, to have analyzed the evidence of Gallagher as being the only person whose evidence could be depended upon. You have done that, my lord, far more ably than I could presume to do. It is only necessary for me to say to the gentlemen of the jury that, while ignoring the jurisdiction of the court to arraign or try me as a subject of her Britannic Majesty, I feel confidence in you, my lord, and in the bench, that you will see justice done to the law, of which you are the honorable representative.

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The CHIEF BARON. Well, if there be any part of the evidence that you rely on or wish to remark on, I shall be very glad to learn what it is.

PRISONER. In the first place, there is no corroborative evidence. Gallagher's evidence is a tissue of perjury from the commencement to the end, and he is the only man on whom you can depend. The so-called informer has broken down here to-day. I think the attorney general is bound, in honor, to withdraw two statements which he made in his opening address to the jury. He said he would produce evidence to show that I had landed at Helvick Head. He has not presumed to do that, and there has been no identification for that purpose. He also said he would produce a witness named Nolan. That he has not done. There is no corroborative evidence to show that I had any connection with the organization in Ireland or America. I expect you will, in your analysis of the evidence, submit that forcibly and strongly to the jury; while at the same time, with profound respect, I do not recognize the jurisdiction of the court.

The CHIEF BARON. With respect to your statement that there is no evidence of your identity as having landed at Helvick Head, there is evidence in the testimony of Roche, the farmer, and of the constable, wholly irrespective of any identification of features; for you are proved to be the person who came to him at Ring with your clothes wet, and were taken by him to Youghal. That is some evidence as to who you were; and that you, the prisoner at the bar, are the person who came from the vessel. With respect to Nolan, the attorney general said he would produce him, and did produce him; but Nolan was entitled to withhold his evidence on the ground mentioned. And I mean to tell the jury that they are not to regard the fact of Nolan declining to give evidence as at all a circumstance against you.

PRISONER. Roche stated that his house was two miles from Helvick Head, and there is no information to connect me with the strand and the vessel.

The CHIEF BARON. There is the evidence of the coast guard.

PRISONER. He does not identify me.

The CHIEF BARON. He saw a number of persons go from the vessel up the road by the cliff, in the direction of the church of Ring, and that, irrespective of the testimony of Roche as to features, is some evidence to go to the jury that you were one of the persons who landed.

PRISONER. He makes no reference to my landing. He says that one of the parties that came to his house hired his car. The strand is two miles from his house. There is no evidence of identity.

The CHIEF BARON. That will be for the jury.

The solicitor general then replied on the part of the Crown. He said: Gentlemen of the jury, with your permission, at the close of this case, I will make a few remarks without addressing myself to the entire evidence, but chiefly in reference to the observations the prisoner has made in connection with the questions put to the witnesses at his

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request by my lord chief baron. The attorney general in opening this case expressed the regret which he felt that the prisoner had declined to avail himself of the assistance of the learned counsel who had been retained for his defense, lest that defense might be thereby prejudiced; his counsel withdrew in consequence of the express instructions they received, having no option left to them, when the prisoner so requested. The

attorney general felt that perhaps the prisoner's case would suffer from having that assistance withdrawn. The duty of counsel is to weigh well the evidence, to protect and shield his client, and if practicable to explain away what may appear prejudicial to him. We all know of what advantage it is to a prisoner to have the services of able and experienced counsel to conduct his defense, and therefore the attorney general felt regret that the learned gentlemen retained for the prisoner should have been obliged to withdraw; but now, gentlemen, that the case has closed, I say advisedly, the prisoner has not received much injury from the course he has thought proper to adopt; nay, I think he stands almost in a better position than that which he otherwise would have occupied, because while he has placed himself in the position of a *quasi* undefended prisoner, he has with great ability taken advantage of all the weak points in the case; and his comments upon any discrepancies in the evidence of the witnesses which have been elicited by the able judge who has presided at this trial, could not be surpassed by counsel. And what does it all come to? With regard to Gallagher's evidence, the prisoner knows that if that witness is believed by you he is a convicted man. And can there be a doubt raised as to the truth of that testimony? There may be some slight discrepancies in the informations which he has made; there may be, perhaps, a few additions, in the last information, to the evidence given by Gallagher in the first information made by him in May; but I ask you, as reasonable men, has the prisoner been able, upon the broad cardinal features of the case, to break down the evidence of either Gallagher or Buckley?

Gentlemen, I may tell you that you can convict upon the evidence of Buckley alone; but judges are in the habit of telling juries not to convict upon the uncorroborated evidence of an accomplice. But you have material corroboration of that evidence. First, in regard to the vessel itself; the fact of that vessel being in Sligo bay on the 23d and 24th of May is deposed to by Gallagher, and Gallagher is corroborated by his assistant and by the coast-guard men. Buckley further swears, and Gallagher corroborates him, that three men, two of whom were wounded, were landed from the vessel at Stredagh, on the 25th May, and two of those men are produced and identified in court as having been the men found on Stredagh shore upon that 25th of May. Then we have it proved by three or four witnesses, whose evidence cannot be impeached, that a large body of men landed near Dungarvan from this brigantine on the 1st of June, and Buckley's account of that landing is corroborated in every particular by two

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of Whelan's crew, who assisted in taking them to shore. The prisoner has suggested that he was not identified as being one of the 30 men who went ashore near Helvick Head on that 1st of June; but has it not been clearly proved by Roche that upon that morning the prisoner, accompanied by Nagle, came to his house and hired a horse and cart to convey himself and his companion Nagle to Youghal, a distance of some 11 miles? and Constable Norris is produced, who tells you how upon that day he arrested Warren and Nagle, driving upon Roche's cart, near to the town of Youghal, and that he noticed that their clothes were wet and covered with sand. How materially does this evidence corroborate Buckley's account of the landing at Helvick beach; and if this testimony be believed, we have the prisoner Warren brought almost to the very landing-place, and traced from Roche's house, only two miles distant, to the town of Youghal, where he is arrested on the afternoon of the day of landing; and thus, almost without referring to Gallagher's evidence at all, the testimony of Buckley in its essential features is amply corroborated, and Warren's complicity in this expedition is fully established.

No man in this court can forget the graphic description given of this expedition by Buckley—an expedition steeped in crime, and yet almost romantic, but for its criminal character. The band, I was going to say of marauders, but of lawless men, collecting in Canal street, in New York, and proceeding on board a steam-tug, which brought them to a brigantine in the river, where the party gets on board; their sailing on the 12th of April; the firing of the salute; their unfurling of the "sun-burst;" their voyage across the Atlantic; and their reaching the Irish coast on the 24th of May, when Gallagher the pilot is taken on board. If Gallagher's evidence is true, if it be not pure invention and fabrication, that he was taken down into the cabin of the ship, and that Nagle, in the presence of Warren, administered to him an illegal oath, John Warren is convicted of the offense with which he stands charged. It is said that Gallagher does not say in his informations, as he stated here yesterday, that he took that oath under terror that his life would be taken away if he refused, under threat of death, and perhaps the apprehension of being instantly shot; (and I need not remind you that we have but too recent experience of the use of the revolver in the hands of these desperadoes in this country.) Gallagher is not bound by the oath which he was forced to take on board the vessel under the threat of death; yet any facts that he withheld in his first information were no doubt withheld in the belief that he was bound by that illegal oath. That is a very reasonable explanation for the silence of Gallagher upon the occasion of his making his first information. Accordingly, when making that information on the 27th of May, two days after he came on shore, when brought before Mr. Labatt,

none of the prisoners having been arrested at the time, in that information he does not disclose the secrets which he had sworn solemnly not to divulge when he came on

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shore. Gallagher admits that. Nor does he say anything of it on the 15th June; but when he comes to make his final information, on the 12th of October, in the presence of the prisoners, he then discloses all about the oath.

PRISONER. Will you allow me to suggest a few words—a discrepancy also. Buckley swears all the "colonels" were in the cabin, and Gallagher conveniently swears that there were only Nagle and myself.

The SOLICITOR GENERAL. I do not recollect Buckley swearing that all the "colonels" were there, but he swears that Warren and Nagle were in the cabin, as he heard their voices.

PRISONER. He swore all the "colonels" were there.

The SOLICITOR GENERAL. The prisoner will press me to say more than I had intended by these interruptions. He has had all the informations in his custody, and he is suggesting these small discrepancies. He proposed to call Nagle to contradict what Corydon swore as to his having seen him recruiting in New York; but he never offered to produce Nagle to contradict Buckley or Gallagher, who swore that Nagle was in the cabin, and there administered this illegal oath in the presence of the prisoner.

The CHIEF BARON. Buckley merely says that all the "colonels" went down to the cabin together.

The SOLICITOR GENERAL. My distinct recollection is, that Buckley merely stated that he heard the voices of these two men, Warren and Nagle, in the cabin, but he did not swear that he saw a single person there.

The CHIEF BARON. He said the colonels were in the cabin at the time Gallagher was there.

The SOLICITOR GENERAL. This is quite possible. Gallagher says he saw the two prisoners, Warren and Nagle, in the cabin, and if Gallagher is speaking truth, Buckley is corroborated in a most cardinal and important fact. He is sworn not to disclose the secrets of this nefarious expedition; and although he keeps that oath for a time, yet afterwards, when brought in the presence of the prisoners, he discloses all. And you will find that his last information, sworn in Warren's presence on the 12th of October, contains all the evidence he has given upon the present trial.

Gallagher further tells you how he got into the boat, thinking to return to the shore with the person who came on board on the evening of the 24th May, and that he was dragged out and told to remain where he was. He tells you that he was informed that two men had been wounded that day on board, Nolan and another person named Connor; and that as these men were useless as members of the crew, it was proposed to land them during the night, when he could land along with them. He lands accordingly along with the wounded men, and a man named Nugent, who was one of the expedition. A coast guard describes his meeting Gallagher on the morning of the 25th May near the

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place, and says he was running at the time. Gallagher had some distance to go, and it is only natural he should be making all haste. Now one of the discrepancies relied upon between his first information and his evidence here is, that he omits in the information to mention anything about the cargo of fruit; but he stated here yesterday, when I examined him, that he was told on board that the vessel was going with a cargo of fruit to Glasgow, and in the information he made on the 17th June, before Mr. Coulson, he states this very thing. The man has given you an explanation as to how he omitted it on the first occasion, as he was deterred by the illegal oath that had been administered to him, and by the terror he was in at the time. He was naturally afraid that if he disclosed what had taken place, an account might be taken of him, perhaps in a way that he would not desire, when he reached his home in Donegal. That is a satisfactory explanation why you do not find this stated in the first information. Except you believe Gallagher a deliberately perjured witness, coming up here to tell a tissue of fiction which has no foundation in fact, you must convict the prisoner. Did you see the man's demeanor, his appearance, and his manner of giving his evidence? Did you hear the indignant denial of the man when he was asked had he ever committed a theft while on board ship, or any other place? Why has the prisoner not produced evidence to contradict Gallagher? He has had an experienced attorney, and ample funds at his command; he has had the means and opportunity to break down the evidence of Gallagher if he could. He has failed to do so; and I now ask you to believe Gallagher. And if Gallagher is believed, then Buckley is corroborated.

Has the prisoner given any explanation of how he happened to be in the cart on the bridge, at Youghal, on that day of the landing at Dungarvan, on the 1st of June? He is a man not devoid of intelligence, or of education, and he was at liberty to account for his presence, under such strange circumstances, in this country. What brought him to Ireland on the 1st of June? He was arrested on the very day the other men from on board that ship were taken. He is a man who has been connected with the press, and must have had hundreds of correspondents at the other side of the Atlantic. What

difficulty could he then have in showing how he came to Ireland, and for what purpose—if it was not a wicked one? There is ample corroboration of the informer on all the cardinal points of the case, convincing corroboration on all the collateral circumstances—the brig cruising up and down Dungarvan bay, the arrest of Warren and Nagle on the bridge at Youghal, their getting into the cart with their clothes wet, two miles from the very point where the men had landed on the coast. The prisoner does not attempt to give you a suggestion or explanation of how he landed on the coast that day. Is this ship imaginary; was she not cruising about under the eyes of the coast guards at Donegal? Were these 30 men who got on board the lugger imaginary? The coast-guard man, Jones, told you that he saw about 30 men get out of a lugger, and

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within a very few hours afterwards the prisoner is arrested, and he is recognized in prison as being the person who, with another, applied to a farmer, residing within two miles of the place of the landing, to be conveyed to Youghal. Gentlemen, it would be only wearying you if I were to press the case further. Even if Gallagher's evidence was out of the case, there is ample corroboration of the evidence of Buckley to fasten guilt on the prisoner.

The CHIEF BARON. What is that?

The SOLICITOR GENERAL. The fact of his arrest is corroboration of Buckley; the fact of his being arrested within a few hours after this landing of the 30 men, within a short distance of where it took place. That in itself brings complicity so home to the prisoner that if it were unexplained a jury must, according to all legal principles, convict the prisoner. Then, gentlemen, I may remind you that the prisoner does what many criminals do; he resorts to the device of a false name; his name is Warren, and yet when arrested he says his name is John Donovan, and that he comes from Cork. If the circumstances under which he comes to this country were innocent, they are entirely unsuggested and unexplained by the prisoner. I again ask you to believe Gallagher. If his statement were false, it would not bear the sifting of cross-examination. In this case I think every person will agree with me that the prisoner has conducted his defense as judiciously, as carefully, and as cautiously as if he had had the services of the very ablest counsel at the bar of England, Ireland, or America; and has he succeeded in satisfying your minds that Gallagher is a perjured man? There is no substantial difference in what that witness told on the 15th June and on the 10th and 12th October; and of course, if Gallagher is believed, there is an end of the case. I must apologize to you for having occupied your time so long, but I felt it necessary, constrained by a sense of duty, to make these observations. I sit down, confidently resting the case in your hands.

After a brief adjournment thees court again sat.

PRISONER. There are two or three points in the solicitor general's address to the jury that I would like to comment upon.

The CHIEF BARON. Would you wait for a moment, until Crown counsel comes in?

On the Crown counsel returning to court,

The SOLICTOR GENERAL said: My lord, we have looked over the indictment and we think there is evidence in support of all the overt acts, but we have struck out several, and left in only those upon which we rely.

The CHIEF BARON. You should reduce the number as far as you can; it is important to do so in order to simplify the case for the jury.

The SOLICITOR GENERAL: In that case they might be reduced to four—1st, 6th, 16th, and 20th. These are the four cardinal ones.

The CHIEF BARON. Which is the one in reference to the illegal oath?

The SOLICITOR GENERAL. That is the last one. The administering of an unlawful oath to one Michael Gallagher.

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The CHIEF BARON. Which is that which applies to the venue?

The SOLICITOR GENERAL. The 16th is the venue point.

The CHIEF BARON. The 17th seems to involve one and the same matter.

The PRISONER. In reference to some statements of Mr. Harrison, unintentional mistakes, no doubt, I wish to correct him. He says that I was arrested at 12 o'clock, whereas Constable Morris says I was arrested at 3 o'clock, at Youghal.

The CHIEF BARON. I think what he meant was to show that you were found on the cart at that hour.

The PRISONER. He further refers to my not putting evidence forward to contradict that of Gallagher; but I did not do so, not recognizing the jurisdiction of the court. I submit most respecfully that there is no evidence produced to establish or prove that the vessel in Sligo bay and the vessel at Dungarvan is one and the same vessel, nor is there any evidence to prove what was the character of the vessel, or what the cargo was, except Buckley and Gallagher, who say the cargo was fruit.

The SOLICITOR GENERAL. He should have had the man in charge of the vessel here to prove what the cargo was. If I had to speak again, I could say a great deal more than what I did.

The chief baron then charged the jury. He said: Gentlemen of the jury, without preface, which I think unnecessary, I shall proceed to state to you the questions you have to try—to point out the way in which the evidence bears on those questions; and in doing that it may be necessary, especially as the prisoner is undefended, to present to you, somewhat in detail, the nature and particulars of the evidence, and to comment somewhat upon it, especially the testimony of the two principal witnesses—on which, if the prisoner had counsel, he would have commented. Gentlemen, the prosecution is founded upon an act of Parliament passed in the year 1848, and I will read for you the provision of that act upon which the prosecution rests: "If any person within the United Kingdom or without," &c. The charge against the prisoner at the bar is founded on this portion of the section: "If any person shall compass, imagine, intend, devise, or declare, or intend to deprive or depose our most gracious lady the Queen from her royal style and name of the imperial Crown of the United Kingdom, and shall express, utter, or declare such compassing, imagining, or intention by any overt act or deed," the offense shall be treated as treason-felony, &c. The charge against the prisoner is, that he did compass, imagine, and so forth, to depose the Queen from the royal style and name of the imperial Crown of the United Kingdom, and that he declared and showed that compassing by the various overt acts or deeds, or some of them, which are stated in this indictment. The act of Parliament requires not only that the party shall compass or devise what is charged, but that he shall manifest the compassing and devising by an overt act. It is necessary for the Crown to specify the overt acts upon which they rely; and that it is for the jury to determine whether these overt acts, or any of them, have been committed, and whether they show the intention

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charged in the indictment. You have heard the word compassing used; it is an old term of the law; it means, in plain terms, intention or design. That at which the statute is leveled is the intention or design to depose the Queen from her authority, the intention being manifested by the overt act or deed. The proof of the overt act is absolutely indispensable, for without it the prisoner could not be convicted. You know that the secret intentions of mankind can only be ascertained by their words and acts; and while the statute protects the sovereign on the throne, protects her for the benefit of the whole community which she governs, and in which she is to maintain order by enforcing obedience to the laws, both the law of treason and this statute require that for the protection of the subject the crime shall not be treated as proved until it has been shown to be manifested by an act or deed of the party. Several overt acts—which mean nothing less than open acts of the party—are stated in this indictment.

I shall read for you some of these overt acts, without incumbering you with all; and if any one of them is established by evidence, your own common sense will suggest to you that the intention charged was manifested, that the compassing charged was intended, by the prisoner at the bar. It is said, in the first overt act, "That he did compass, conspire, consult, and agree with James Stephens, O'Mahony, Roberts, and others, to raise, make, and levy insurrection and rebellion against the Queen." The second charges him with combining with Stephens, O'Mahony, Roberts, and others, "To subvert and destroy the constitution of these realms, as by law established," &c. If the prisoner conspired to levy war, insurrection, and rebellion against the Queen—if he conspired to destroy the constitution of these realms, which is that of a monarchy —that must of necessity be the result of a design to depose her from her authority. Another of these overt acts charges, "That he in America embarked on board a certain vessel, and placed a large quantity of guns and pistols on board that vessel, and came to the coast of Ireland with these guns and pistols, with intent to effect a landing," the object of effecting that landing being "to join with other evil-disposed persons to fight against the troops and overthrow the power of the Queen in Ireland." The indictment includes the names of Warren, Nagle, Costello, Fitzsimons, and others; but the Crown is entitled to put any one of these prisoners on trial, and they have proceeded against the prisoner at the bar. The indictment sets forth a number of particulars, a number of transactions which took place previous to the prisoner's coming to this country. Another of these overt acts states that in America these persons did embark on board a certain ship, and place arms therein—a thousand guns and a thousand pistols—the number is quite immaterial—and did sail into Sligo bay, with the intent and object of landing, in order to fight against and overthrow the power and authority of her Majesty in Ireland. Another of these overt acts states the same thing in a different way —that these persons came into that part of her Majesty's dominions called Ireland, with

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the intent and object of raising insurrection and rebellion in Ireland, and levying war against her Majesty; and that the prisoners, with others, took these arms and proceeded on board ship for the purpose of effecting the purposes of the Fenian organization, namely, for the purpose of establishing a republic in Ireland. Any one of these acts will be evidence sustaining the overt acts charged in the indictment, clearly establishing the design of an insurrection, the object of which would be to depose the Queen from her authority. Another of these overt acts says, "That they became members of

an unlawful association called the Fenian Brotherhood, having for its object," &c. Anybody who entered into such a confederacy, you will have no doubt—the object of the confederacy being to overthrow the authority of the Queen—intended and devised the purpose which it is the object of the confederacy to effect. Another of these overt acts alleges, (what I shall hereafter have to explain to you) that the prisoner at the bar did, on the 5th and 6th of March, 1867, (the day is immaterial, but there can be no doubt of the day,) at Tallaght, in the county of Dublin, and divers other places in the county of Dublin, and with arms and guns and pistols, fight against the constables and troops of her Majesty the Queen, and levy war against our said lady the Queen. There can be no doubt that to fight against the troops of the Queen, or the constables in arms under her authority, is evidence of a design to depose her Majesty from her royal style and dignity.

I believe it is unnecessary for me to say anything of the other overt acts. You perceive that in result they amount to this: In the first place, that the prisoner entered into a conspiracy or agreement with certain persons, no matter how few or how many, to levy an insurrection against the Queen. If you come to the conclusion that he was a member of the Fenian conspiracy, and that the object of the Fenian conspiracy was to establish a republic, you can entertain no doubt that he designed to overthrow the authority of the Queen in Ireland. If he came with that vessel for the purpose of landing arms, I presume you can have no doubt that his object was that which is imputed to him in the overt act which relates to that transaction. With regard to the levying of war in the county of Dublin, the policeman has told you about those transactions. He has told you what occurred there, in the assaults on three constabulary barracks. These are evidence of the levying of war; and it is for you to consider how far the prisoner at the bar, with the instructions I shall give you on points of law, is affected by them. In this prosecution it is necessary for the Crown to establish some one overt act within the county of Dublin. An overt act having been established in the county of Dublin, it is open to the Crown to establish what would constitute overt acts showing a conspiracy in any other place; and though Sligo is not in the county of Dublin, and Waterford is not in the county of Dublin, yet, if the party came to Sligo, and brought arms for the purpose of effecting their treasonable purposes there, conspiring *there* to accomplish those purposes, it will establish a case against the prisoner,

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provided he is also fixed with the overt act done in the county of Dublin.

Gentlemen, there is not a single particle of evidence to show that the prisoner at the bar was within the county of the city of Dublin, or that he had any actual personal participation in what occurred at Milltown, Stepaside, or Glencullen. But if you come to the conclusion that these were the acts of his co-conspirators in the Fenian confederacy, and if you come to the conclusion that the acts of levying war did take place within the county of Dublin, and were done by members of that confederacy, of which he was a member, in furtherance of its objects, then, by a recent decision of the highest court of criminal jurisprudence in this country, I have to tell you, in point of law, that the prisoner would be answerable for that act if he was then a member of the confederacy, and that the acts done by others who were co-conspirators were his acts, and made him responsible in law for them, as if he was there bodily present doing the act himself.

Now, gentlemen, as regards the evidence: I think I may sufficiently rely on your recollection of it as to the general result, and as to the main and substantial questions you have to determine. Did the expedition take place; did the prisoner at the bar form part of the expedition; was he one of those who accompanied it; and was he a member of the Fenian confederacy; and did members of the confederacy, being co-conspirators in it with him, levy war in the county of Dublin, in March, 1866? The case with respect to the Jackmel expedition rests, fortified by the testimony of Gallagher, with some other evidence in support of his, upon the evidence of Buckley, and the general facts tested as to the vessel arriving off the coast of Waterford and landing a number of persons on the first of June. In the first place, the Crown must rely on the transactions in the county of Dublin, and it is essential that the prisoner should be connected with them. They must rely on these two propositions: First, that the prisoner, at the time when the acts of levying war took place, was a member of the Fenian confederacy; and secondly, that members of that confederacy, while he was a member of it, in pursuance of its object and in furtherance of its design, did the acts of levying war with respect to which evidence has been given. First, with respect to the Jackmel expedition, the evidence, in a very great degree, rests on the testimony of Buckley—that testimony being part fortified by the testimony of Gallagher, if you believe it. Buckley comes forward as an accomplice; and the law declares that, in strictness, a verdict founded on the testimony of an accomplice would be a legal verdict. But it has been the uniform practice for a long time past, and a general practice for a long time anterior, for judges to advise juries, and juries have been in the habit of acting upon that advice, not to convict on the testimony of an accomplice or of any number of accomplices, unless that testimony be corroborated in some material part of the tes-

timony itself; and that it is essential that it should be so corroborated in some part of the story which connects the prisoner with the crime. When an accomplice has

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received corroboration, the jury are not still bound to believe him; but if his story be corroborated, they are at liberty to act upon his testimony, and juries are to apply their own sense in determining whether the corroboration he receives is such as to satisfy their minds that he is telling a true story. Buckley's whole evidence is of that character; the whole of his evidence is that of an accomplice. He is not—and it seldom happens that an accomplice is—he is not corroborated in the whole of his evidence; if that were so, the other evidence would prove the facts without him; but it is only necessary to make his evidence such that a jury would be warranted in acting upon it—that in a material part, going to fix the prisoner with the crime, it has been corroborated, so that you may be satisfied of the truth of the whole. The whole of it may not be corroborated, but it must be corroborated so far as to induce the jury to give credit to the witness.

The testimony of Corydon stands even still more strongly in the same predicament; for he was not only an accomplice, but an informer and spy, giving evidence from time to time of these criminal proceedings; so that he comes forward with the stain of not only betraying his accomplices, but with the further stain of remaining with them and receiving their pay, and, at the same time, the pay of the government for giving evidence against them. That is an odious character. Some will think that there ought to be an objection to the employment of such characters; but you will, I am sure, agree in this observation: that when deeds of darkness are to be brought to light, when the safety of the state is imperiled, when conspiracy is hatched, and the object of that conspiracy is to overthrow the constitution as it exists and involve the whole community in confusion and calamity, in the destruction of the monarchy, in the dissolution of society into its original elements—when there is imminent danger of such terrible results to all we hold dear in life, it becomes a matter of necessity that resort shall be had to persons for detection and information from whose real character all honorable men would recoil. Unless the testimony of accomplices, and in some peculiar cases the evidence of informers, be taken, it may be impossible to discover deeds of danger and atrocity, which it is the duty of all governments, if they can, to discover, and of which it is their duty, if possible, to bring the perpetrators to justice. In these cases, if it be necessary to employ such instruments, it is a great calamity; but in many instances the employment of them may be only the means of preventing far greater calamities. I make these observations in reference to Corydon. No jury would act on testimony such as his unless corroborated in some material part of his story.

Having made these observations as to the nature of the evidence of the witnesses, and the law to be applied to it, I shall proceed now to that evidence. Supposing you believe Buckley, and his testimony is corroborated if you believe him in so far as relates to the charge that the prisoner became a member of the confederacy, the object of which was to depose the Queen, or establish a republic, (which necessarily must

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involve the deposition of the Queen,) and so far as relates to those acts which disclose the objects of the Jackmel expedition, there can be no question that on Buckley's testimony a case is established against the prisoner. He carries back the prisoner to the year 1865. That, you perceive, very considerably overreaches the transaction of March, 1867, which comprises what was done in the county of the city of Dublin.

PRISONER. My lord, you say Buckley. That is a mistake. He swears he never saw me until he saw me on board the vessel.

The CHIEF BARON. You are quite right; it is Corydon I should have named. Buckley gives evidence of the Jackmel expedition. He describes himself as having been a member of this confederacy so long ago as 1865, when he left the American army. Corydon it is that states all the transactions affecting the prisoner individually prior to that; but Buckley states that he was himself a member of this confederacy from the year 1865; that the confederacy existed in 1865; and that overreaches the transactions of March, 1867. It was proposed to Buckley to join in a Fenian expedition, the mischievous objects of which were not disclosed to him, to which he agreed. He gives you evidence of a number of persons having assembled in a street in New York; that he was one of them; that he went on board a steamer; that they proceeded to where it was expected a vessel would be found; that ultimately they reached the vessel, and went on board, and after going in a direction to avoid pursuit, they ultimately proceeded to the coast of Ireland; and he then describes Warren as being in that expedition. He describes to you Warren as being on board, and holding a certain rank—the rank of colonel—and participating in all the designs that were disclosed in the progress of the voyage. He was present when the vessel was re-christened by the name of "Erin's Hope," when the commissions were taken out and distributed, and when the object of the expedition was disclosed, namely, to land arms in Ireland—of course in furtherance of the object for which the expedition was formed. All that, if you believe

the testimony of Buckley, proves that Warren was a member of the Fenian conspiracy, and that he engaged in that expedition in conjunction with the others. The testimony of Buckley is supported by the testimony of Gallagher to this extent, that the vessel which Buckley describes was found by Gallagher, just as described by Buckley, in Sligo bay, and that he was engaged as a pilot. He says not only that Warren was on board, but that Warren and Nagle, another of the persons included in this indictment, endeavored to induce him to take the Fenian oath; and that ultimately they forced him to take an oath not to divulge what he saw on board the vessel. If that transaction took place in the presence of Warren and Nagle, that is undoubtedly evidence which you are quite at liberty to consider a corroboration of Buckley in a material part of his evidence, because it brings home to Warren a connection with the crime charged, the fact of his being on board the vessel, and forcing Gallagher to conceal the purpose of the voyage.

Now as to the testimony of Buckley and Gallagher. Each is impeached by matters

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irrespective of the character of Buckley as an accomplice, and founded on statements which they suppressed on former occasions when examined before the magistrates. These it will be my duty to bring before you by and by; but at present I am dealing with the extent of the corroboration received by Buckley in that transaction deposed to by Gallagher. In some of the other circumstances detailed by Buckley he is also fortified by the testimony of Gallagher. These, however, are not portions of the alleged crime, although they are connected with what occurred on that expedition. It appears that two persons were wounded—it does not matter how they were wounded. Buckley says they were wounded by an accidental discharge of a weapon he was cleaning; Gallagher says he was told they were wounded in a contest between the two men. The fact of their being wounded is proved by the testimony of Gallagher, and the evidence of the persons who found the wounded men on the shore, and who afterwards arrested both them and Nugent. Nugent is proved to have gone in company with these men and Gallagher; that is proved by Buckley, by Gallagher, and by those persons by whom they were subsequently arrested on shore. But, gentlemen, irrespective of details, there is one leading feature in this case which I am bound to present to you, as affording inherent corroboration of the story told by Buckley. Before I refer to it, I wish to bring your attention to another piece of evidence which connects the prisoner at the bar with the sailing of the vessel, and that is, the transaction of the landing of a large number of men on the coast of Waterford, and the subsequent arrest of the prisoner at the bar. This portion of the case does not require that I should go into any detail of the evidence. It appears that a vessel, corresponding in character with the vessel proved by Gallagher and the coast guard to have been at Streeda, and corresponding with the vessel that was seen in Sligo bay, was near the coast of Waterford on the 1st of June; it appears that the persons in that vessel hailed a fisherman while engaged in his ordinary occupations. They first asked whether he would take two men on shore, offering him £2, not disclosing the design that any more were to be landed.

You are to consider the circumstances of that proposition being made, and the suppression of the intention that so many men were to be landed, in this light, that if they had communicated the fact to the fisherman he might have refused to take them. However, he says about 30 went on the vessel—on this fishing vessel—and were landed; and it appears, on the testimony of the boatman and a number of the coast guard, that these persons went up the hill in twos and threes towards the church of Ring. Was the prisoner at the bar one of the persons who so landed? Buckley swears he was. Buckley himself swears that he landed, and Buckley was subsequently arrested. It is proved that at the time when the boatman says 30 men landed, having plunged into the water and walking up to their middle, it is proved that about that time two men applied to a farmer name Roche to be conveyed to Youghal. He took these two men on his car; they were wet up to the middle; and he took them on to Youghal, where they were arrested

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on the bridge. These two men were Warren and Nagle; and if you believe the evidence of Norris, each of them gave a false name. If there was an infirmity in the identification of the features by Roche in the jail, you are not to withhold credence from him, but rather to attribute it to the way in which these persons were presented to him. As to his veracity there can be no mistake. But of this there can be no doubt, that two persons who had been on board this vessel came to him; that he took them on his car, and afterwards, when accosted by the police, they gave false names, and that the prisoner at the bar was one of those men. But Roche goes further, and says that when the parties were brought to him he would not have at first recognized them—the opportunity was so brief; but he says he was induced to recognize them by the prisoner shaking hands with him. The prisoner said, on this trial, that he did that as a joke; but Roche, on reflection, swears that the prisoner at the bar is one of the persons whom he brought on the car to Youghal; and, gentlemen, if you come to the conclusion that the prisoner at the bar was brought to Youghal, and in company with Nagle, that is

evidence undoubtedly worthy of your consideration as regards the testimony of Buckley, because it brings these two persons in close proximity to the place where a large number of men unquestionably landed, according to the testimony of the police.

Now, gentlemen, do you come to the conclusion that the vessel that was sighted at Sligo bay was the same vessel from which the men were landed at or near Dungarvan? There is no evidence except the testimony of Buckley that arms were on board this vessel; there is no other evidence except that of Gallagher in reference to Fenianism on board the vessel. I do not now speak of the evidence given by Buckley. If you believe the evidence, at Sligo bay she was, in Sligo bay she remained, in the Bay of Sligo she was piloted, in the Bay of Sligo she discharged the pilot after some communication with the person called the agent; a transaction which may have been innocent, irrespective of the testimony of Bradley; but with this large number of persons on board—far beyond what was necessary for navigating the vessel—with this large number of persons on board she leaves Sligo, she goes to the southeast coast from the northwest, and there 30 persons are landed, leaving others on board. Here you have to consider what these 30 persons stated of themselves, and how far you consider these statements inconsistent with the circumstances I have mentioned. I am now dealing with the fact of this vessel being at Sligo, and afterwards at Waterford, and I am suggesting to you whether in the movements of the vessel, and in what occurred on the coast of Waterford, there is that which would lead you to believe the statements these men made. They stated that a vessel in which they were fishing took fire, and that they were taken up by the vessel which they had left. Is that a matter which you would consider so improbable as not to warrant implicit credit?

The PRISONER. That statement only referred to the two individuals arrested in Youghal, Nagle and Warren.

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The CHIEF BARON. Then you have to account for so large a number of persons being at Sligo, afterwards at Streeda, and afterwards at Dungarvan, in a vessel charged with a cargo of fruit, the circumstance of the vessel discharging so large a number of men, the whole story of Buckley, and the other circumstances which I have suggested, and which appear to me to be fitting for your consideration, with the view to the corroboration of Buckley's story.

Before adverting further to the evidence of Buckley, let me deal with the testimony of Gallagher; because if you believe the testimony of Gallagher, it very strongly tends to confirm one important part of the testimony of Buckley, namely, that in which he refers to the transactions that occurred in the cabin; and tends to corroborate it further by the reference to Fenianism that was made to Gallagher when he went down to the cabin and was in communication with Warren. If you believe the testimony of Gallagher he is no accomplice. There is nothing in the evidence of Buckley, or in the evidence of Gallagher, to *prove* Gallagher an accomplice. But there is evidence on which it is for you to consider whether he was in fact an accomplice. There were unquestionably suppressions by Gallagher in his former testimony, which go very considerably to shake the confidence that would otherwise be attached to his evidence, provided you think it material; and if Gallagher did voluntarily, and in order to shelter the parties who are charged, or who were on board that vessel, forbear to give information when he was first examined, and, still more, if he voluntarily withheld that information, that would be some evidence from which it might be inferred that he participated in their designs. But upon his story there is no *confession* of his being an accomplice. And it is only with respect to that part of the evidence that I think any question would arise. It is of some importance, with a view to his credit, to consider what his occupation is; and it is established, I think, that he is, and has been for a considerable time, following the occupation of a fisherman and pilot; therefore it is natural that he should be on the lookout for employment, and that he should be taken on board as a person to be employed; that he went on board is proved not alone by his evidence, but by other evidence. You have to deal, no doubt, with the credibility of that witness; but before you discredit him you should be very careful of the ground upon which you come to such a conclusion.

I will now bring to your attention the portions of Gallagher's evidence upon which the impeachment rests. Gallagher was first examined on the 27th of May; and he said that on Friday, the 24th, he observed a brig in the bay, and boarded her about 12 o'clock to ascertain whether she required a pilot, and having been told that a pilot was required, he was engaged. He said he was told that the captain had left and had gone on shore to get provisions, and that he was expected back at 6 o'clock in the evening. He then says that the man in charge told him that the vessel was a Spanish vessel from Spain bound to Glasgow, but that he did not tell him the cargo. That was on the 27th of

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May, the day but one after the transaction occurred. Well, upon an information which he swore in the month of June following, the 15th of June, he undoubtedly does say that he asked the person in charge where he was from. He said he was from Spain, and bound to Glasgow with fruit. That is a positive statement, made upon the 27th of

June, and it is in direct contradiction to what he had said on the 27th of May, namely, that the person told him he was from Spain and bound to Glasgow, and did *not* tell him the cargo. Well, the telling of the cargo, especially if it was stated it was fruit, was certainly not a very material circumstance; but at the same time the prisoner has a right to have your attention called to the contradiction. He said he received no money from them for his services, as the man in charge said they had no money until the captain came back. It turns out that he received 5*s.* or 6*s.* when he said that his family was poor; but he meant, probably, not that he got nothing at all, but that he was not paid his stipulated pilotage for his services. I therefore suggest that that alone is not a reasonable ground for discrediting him. But then comes this portion of the information of the 27th of May, which I think is material: "A short distance from where I landed, about two miles, I met two coast guards, who made inquiry about the vessel." The coast-guard men were examined, and told you what he stated, and they told you he did not make any statement whatever in reference to the transactions the details of which he deposed to here; so that in his conversation with the coast-guard men, and in answer to their interrogatories, he withheld that portion of the information which is now material. He then says: "I told them all I knew." Now, if he had merely withheld the information from these coast-guard men, it would be hardly possible to discredit his evidence on that ground alone. But upon the 27th of May he pledges his oath to this: "I told them all I knew. They said they had been watching her, and they proceeded on towards the shore." That is a positive statement, and it certainly is not true. He did not tell them all he knew.

Then comes this further statement, which must have been a subject of interrogation by the magistrate. He had been apprised that the coast guard had been watching, and he must have recollected what passed in the cabin; and he states, upon his oath, upon that occasion, "I know nothing further concerning the said vessel." Does that mean that he knows nothing more of what occurred upon the vessel, or that he does not know anything more concerning the vessel or her destination? Does that mean that he intended to withhold the information from the magistrates? Unfortunately, upon his evidence the latter is what he says, for he tells you the reason why he said he told all he knew. He said the reason he said he did not know anything further concerning this vessel was that he had given this engagement on oath that he would not disclose it; and that, in consequence of the oath he had thus taken, and which he desired not to violate, he took an oath which was a false one—saying that he had told all he knew about the ship. When he was examined this morning, he said that some of the state-

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ments contained in his information were taken down wrong. But I do not think he applies that to either of the two statements I have referred to. In one information he says it was 7 o'clock in the morning he saw the vessel, and in another he says it was 7 o'clock in the evening. He says in the information sworn on the 15th of June, "I did not ask her name, nor did I hear it. I did not ask the captain's name, who was said to be on shore." In his information subsequently made, in October, he said, "I asked the name of the captain, but the man in charge would not tell me, and I could not get the name of the captain." So it would appear he inquired into both of these things, although in his information in June he stated what I say. Gentlemen, the important part that I have suggested to you is, of course, momentous with a view to the prisoner's interest in this inquiry. That statement in May, upon Gallagher's oath, is inconsistent with the statement he subsequently made; but there is this, further, which it is always important to consider with a view to evidence of this kind, that, although he might have been mistaken on the 27th of May, and had been examined again on the 15th of June, and was for some time in custody, yet it was not until the 12th of October, which was about the time that Buckley's information was ultimately sworn, that he, for the first time, gave a detail of that transaction which occurred in the cabin. Nothing of that was said upon the first or second information. In the last (the third) information he gave a larger account of what occurred, for he says that about 2 o'clock he was taken down to the cabin by the man in charge, and saw two persons, the prisoner and Nagle. He could not say whether there was any one else in the cabin. Nagle then asked him would he like to be a Fenian. In the statement to you he said what he was asked was would he be a Fenian. "I told him not, and he asked me were there any Fenians in the county," &c. "The man in charge of the vessel then told him to swear me not to give any description of the vessel when I would get on shore. I would not, and the man in charge took a pistol and told me to take the book. I then took the book and swore not to give any information about anything I would see in the vessel."

In his evidence yesterday he said, "anything I would see done about the vessel." That appears, thus on the third information, for the first time; and where the witness for the Crown has the full opportunity of telling the entire of his story in the first instance, and does not tell the entire, and then adds to it afterwards upon the very point upon which his evidence is all important for the Crown, it is undoubtedly a matter open to grave suspicion, and it will be for the jury to so judge of his evidence by the ordinary rules of life, common sense, and common honesty; whether or not they treat

the omission to make this declaration in the first instance as sufficient to induce them not to give credit to it when made upon the second occasion. But, notwithstanding all that, there is always to be considered by the jury the manner in which the witness gives his evidence, the circumstances under which he becomes connected with the

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transaction to which he deposes, and the circumstances under which the evidence is originally given. When this man was sworn, as described, he must have known perfectly well that the persons who swore him had something to do with the Fenian conspiracy, to which they asked him did he belong. He does not say himself he was afraid of making the disclosures when he was examined, but he does say he was affected by the oath he had taken. He was originally employed, as I have already suggested to you, in his ordinary avocations. He went with a number of persons, and was employed as a part of his ordinary occupation; and the nature of that occupation is proved by the members of the coast guard examined before you. He himself swears positively that he is not and never was a Fenian, or connected with the rebellious proceedings of last year. You have had an opportunity of seeing how he gave his evidence; and although you are called upon to scan it narrowly, with a view to those circumstances alleged to affect its credit, to which I have just called your attention, yet you have ultimately, upon your oath, to say, do you or do you not believe him? Do you believe him an accomplice, because he did not tell all in his first information? Having regard to the fact of his occupation and the way in which he was employed, do you think there is reason to attach impeachment on him against his positive oath that he had nothing to do with Fenianism? If you do not believe he had anything to do with it, there is nothing whatever to indicate that he is a witness whose credit is not to be regarded like any other witness, not requiring corroboration if you believe him, and lending corroboration, if you believe him, to the story of Buckley.

With respect to Buckley himself, you will see how the case stands as to his statement. In Buckley's original evidence he omitted several persons whose names he supplies in his evidence upon the table. He appears to have been originally sworn upon the 12th of September, and re-sworn upon the 12th of October. At the time his first information was sworn, I may say that no considerable number of these parties was arrested. He omits some persons holding the rank of colonel whose names he supplies in the evidence given before you. He omitted the names of Phelan, Doran, and O'Doherty, who were colonels; he omitted the name of James Lawless as one of the parties. He says that he forgot them, and that he was in some excitement at the time he swore his first information. It is difficult to conceive how he could have been excited upon the 15th of June; he must have been arrested some time before that; and he says himself that it was some days after he was arrested that he was in communication with the Crown solicitor for the purpose of giving the information he was able to afford. He had, therefore, time for consideration. Nevertheless, while I bring that to your notice on behalf of the prisoner, it is proper to suggest to you that in that information of the 16th of June he totally omits the name of James Lawless, and who that Lawless was. Why, he was the man who landed with himself, Buckley, who, I believe, was

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arrested with him, and, consequently, must have been perfectly known to the Crown as a participator with the man who was giving the information, from which information he appears also to have withheld the statement about Phelan, Doran, and O'Doherty. If he forgot Lawless, who was really his known associate, that is certainly a matter very favorable, tending to sustain the truth of his own statement that he omitted the others because he forgot them too.

The SOLICITOR GENERAL. He says in his information, "I do not just now recollect the names of any others."

The CHIEF BARON. Yes, and in his evidence given upon the table I think he omits the names of one or two persons whom he mentioned in his informations; for in his information he stated there were four colonels, and seven captains, and four lieutenants, and eleven persons who were not lieutenants. In his evidence upon the table he makes seven colonels instead of four, and five captains in place of seven, and three lieutenants instead of four, and six persons who held no rank instead of eleven. When, therefore, he was examined before you, he omits the names of several whom he names in his informations; and you will say whether the account he gives you (and apply it to your own good sense) whether such forgetfulness is or is not natural. You have to deal with men of all kinds, some of them deficient, some of tenacious memory, and it is for you to say whether this witness satisfactorily explains to you why he omitted at one time names which he supplied at another.

The next matter of impeachment is of somewhat more importance. Gallagher, for the first time in his last information, swore on the 10th of October, and Buckley, for the first time in his evidence before you, gave evidence as to what passed in the cabin. Buckley, in his information, does not say a word of what passed in the cabin. He now says he heard what passed in the cabin. He knew that what passed there was the administering of an oath. He says he only heard so much of what passed as indicated

that they were asking some one to take an oath. He says there was a door between the cabin and the part of the vessel where he was, and at that time the colonels were in the cabin. Gallagher only speaks of two. He says they could not be anywhere else in the ship. "I only heard part of the conversation. It was an excuse of Gallagher for not taking the Fenian oath." Gallagher was asked, according to his own statement, not to take the Fenian oath, but to swear that he would not divulge anything he saw on the vessel; but Gallagher says they asked him was he a Fenian, and, therefore, there was a talk about Fenianism. Buckley then says, "he said he was too old, and that was all I could hear." Gallagher said, not that he was too old, but that he was advanced in life, and had children, a mother, and a wife. What then occurred was certainly a material fact to be disclosed; and he was asked by me why it was that he made no statement of that at the time? He said he did not speak about it, and did not think about it, and was not asked. Again, in disclosing all the transactions connected with that vessel, in disclosing the designs of the conspiracy and the purposes for which the vessel was to be applied, it was a most important matter to have stated

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that there was a determination formed by the members of the expedition to take the town of Sligo, and that that determination had been abandoned, and that *that* was the reason why they went towards Cork, and abandoned the attack on Sligo in consequence of the Fenians having been quieted by the failure of their former attempts. That was a material circumstance, and you will say whether it was likely he could have forgotten it; whether in making that detailed statement of the voyage how they left America; how they changed their course to avoid detection; the putting on shore the wounded men; the coming on board of the pilot; the putting ashore of the pilot; the coming on board of the person who had communication with the officers; the sending ashore of the colonels, and of two more men upon another occasion; the transactions near Dungarvan, which were stated with considerable detail; whether, when he says he did not recollect, when he gave his information, the circumstances of the determination to take Sligo, he could have reasonably forgotten it. Another important matter is this: he says that the arms were packed in boxes—large-sized boxes. He says there were some sewing-machines boxes and some piano cases, and then he says, "The cases in which the arms were opened during the voyage, they were so placed as to be ready to be distributed." He was asked how they were placed, and he says, "They were put in twos and threes; they were rearranged in the same boxes." In his informations he swore that they had a quantity of arms; he could not tell what quantity; that they were packed in cases as pianos and sewing machines, and included a quantity of carbines and revolvers; that the boxes were consigned to a firm in Cuba; and that many of those cases were opened during the voyage and the arms packed *in smaller boxes*. What he says now is, that the boxes were one within another, and that they were placed in the way he describes them, ranged in twos and threes, *in the inner boxes*. Whether that is a sufficiently satisfactory account, you will consider. He omitted to make, or did not make, in either of his informations, any statement as to ammunition having been on board, but he has given, in his evidence on this trial, an account of a very large quantity of ammunition, and placed in a most extraordinary manner, in open boxes, between the decks, where he had constant opportunities of seeing it. Now, gentlemen, these are the circumstances inherent in the testimony of this witness itself, independent of the fact of his being an accomplice, on which you are called on to decide. He has been examined before you. You have had the great advantage of hearing the witness himself. If you believe the testimony of Gallagher, if you do not consider him to be an accomplice, he sustains part of the story of Buckley; and it being so sustained, the question you then have to determine is, whether, notwithstanding all that has been suggested with respect to Buckley, you really, upon your consciences and oaths, believe he is telling the truth. If you so believe him, as far as relates to the Jackmel expedition, it is plainly and clearly established. If you entertain any doubt with respect to his evidence, having regard to all the other parts of the case, of course you are bound

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to give the prisoner the benefit of it. With respect to the other portions of the case there is very little indeed to be observed.

His lordship here, addressing the counsel for the Crown, said it was important for him to know in what manner they contended that the case should be left to the jury as regarded the alleged overt act in the county of Dublin.

The ATTORNEY GENERAL. We think that the fact of Warren having been proved to have joined the confederation after the date of the overt act in question, is quite sufficient to sustain the indictment according to Watson's case. But, irrespective of this view of the case, we submit that there is evidence to go to the jury that the prisoner was connected with the conspiracy before the 5th of March.

The CHIEF BARON. It was laid down in Watson's case, in conformity with other authorities, that the acts of conspirators, done before another conspirator joins the conspiracy, are evidence against him, to show the nature and object of the conspiracy, which he adopts by joining it. But there is no case, that I am aware of, in which pre-

vious acts have been, *ex post facto*, treated as the prisoner's acts for the purpose of fixing him with it as an overt act, indicating crime *in him*, of which he was innocent when it occurred. I am not prepared so to hold; but I am prepared, in conformity with the decision in Meany's case, to direct the jury, that overt acts done in the county of Dublin, if done by the prisoner's co-conspirators in furtherance of the objects of the conspiracy, were in law overt acts of the prisoner, if, at the time when they were done, he was a co-conspirator, although he not only was not himself present, but was not within the county of Dublin, when those overt acts were done.

The ATTORNEY GENERAL. I am content that the jury should be so directed, having regard to the circumstances of this case.

The CHIEF BARON (to the jury.) Gentlemen, there are two ways in which, in point of law, this question might, possibly, be left to you, one of which appears to me to be clear, according to a recent decision of the court of criminal appeal, while the other must be subject to controversy. On that subject I won't trouble you with any of those views of the law which influence me at present in leaving the question as I shall leave it to you. But I shall tell you what the law is, and you will be perfectly able to understand it, for it may be stated in a few simple sentences. The law has declared, by a very recent decision of the highest court of criminal jurisprudence in this country, that if a man be a member of an unlawful confederacy, what is done by those who are co-conspirators with him *at the time when he is such member*, although done in a distant place, and without his personal intervention, is his act as well as theirs. If you should find that the prisoner was a participator in the Jackmel expedition, and that that expedition was of the character which has been described, that would establish that at that time he was a member of the Fenian confederation. But that would not

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be enough to support this indictment; because all the acts in which he was at that time engaged, and of which evidence has been given, occurred outside the county of Dublin, which is the district within your jurisdiction and that of the court which is now trying this case. In order, therefore, to establish this indictment, it must be proved that, in addition to any other overt act, there was an overt act in the county of Dublin for which he is responsible. If members of the Fenian confederation, in prosecution of the common design, attacked the three police barracks, and in so doing levied war against the Queen, those were overt acts of all the persons who were then members of the confederation, wheresoever they were at that time. And if he was, *at the time when those acts were done*, a member of the Fenian confederation, the acts done there were acts of his, and he was guilty of the levying of war at Stepaside, Glencullen, and Milltown, just as much as if he were bodily present with the parties who acted there. Now the evidence of his being a confederate at that time, which was the 5th of March, depends upon the testimony of Corydon; because no other portion of the evidence shows that Warren was a conspirator until the commencement of the Jackmel expedition, and that was on the 12th of April. On the 12th of April, according to the evidence of Buckley, he became one of the party, and proceeded to the Jackmel packet; and therefore at that time there is of course evidence, if you believe Buckley, that he was a member of the confederation. But that was subsequent to the attack made upon those various police barracks, upon the 5th or 6th of March. Corydon, however, deposes, that Warren was a member of the Fenian confederacy long anterior to that time. If Corydon be believed, he establishes that the prisoner was a member of the confederacy prior to that time; the other evidence proves that he was a confederate after that time; and consequently there is evidence that he was a confederate at the time when the acts were done in the county of Dublin. But upon Corydon's evidence you cannot act unless it is corroborated; for Corydon stands, as I have told you, in the double capacity of an accomplice and of an informer or spy. Is there then evidence to satisfy you that Corydon's story with respect to the prisoner is corroborated in a material part of it? The material and substantial part of Corydon's testimony is, that he was a member of the Fenian confederacy. He was at that time in America. On the 12th of April, a period of time very recent after the 5th of March, you find him—if you believe on Buckley's evidence that he was a participator in the Jackmel expedition—not only a member, but an active member of that confederacy; not only was he an active member of that confederacy, but he held high rank in it. He held the rank of colonel. And finding him in the confederation in April, you will say whether or not that so satisfies you of the truth of Corydon's story that it connects him, as a member, with the confederation, so as to lead you to believe that Corydon rightly and truly extends his participation in it to a period antecedent to the 5th of March. Corydon spoke of him as having been a confederate long antecedent to that date; I forget exactly how long before, but I think it was 1865.

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Gentlemen, that is the way in which the case stands. If you believe Corydon's evidence, it is perfectly clear that the prisoner was a confederate at the time to which it refers. Corydon's evidence you cannot act on unless you think it is corroborated, unless you think the corroboration of it is such as to satisfy you of its truth. And that corrob-

oration of the story of his having been a member antecedently is only supplied by the fact of his having been found a member subsequently, namely, at a period so near to the 5th of March as the 12th of April, holding then the rank of colonel. Will you come to the conclusion, that his being so on the 12th of April is a corroboration of the statement that he was so for two years, or for upwards of a year before? In connection with the fact that he held high rank, you are to consider whether he is likely to have attained that rank unless he was for a substantial period belonging to the confederation. He was a person that was then selected as one of the trusted leaders of this expedition, if you believe the testimony of Buckley. You will consider whether he would have been so selected as one of its trusted leaders unless he was, prior to that time, a member of the confederacy. If you are satisfied that he was a member prior to that time, that is evidence that I feel bound to leave to you, as evidence to corroborate the testimony of Corydon; and you will then consider whether you believe the evidence of Corydon. You are entitled to take into account the way in which he gave his evidence. Gentlemen, the case stands against the prisoner thus: first, with respect to the Jackmel expedition, it depends on the testimony of an accomplice, Buckley, who must be corroborated; that corroboration is afforded by the testimony of Gallagher, if you believe it, subject to the observation on Gallagher's testimony which I have offered to you. The further corroborating testimony connecting the prisoner with the expedition is only that as to his landing, and there he is brought into connection with the vessel, if you believe the identification of the persons by whom his arrest and his transit from Ring to Waterford are proved.

You will see, then, that the questions before you lie within a very narrow compass. You are to determine whether he compassed, that is, intended to depose the Queen; whether he manifested that intention by overt acts; whether he manifested it by the act of becoming a member of this confederation—did he? Whether he manifested it by the act of being engaged in the Jackmel expedition—did he? Was there such an expedition, and was it such as has been described? Two overt acts, one done within the county of Dublin, and the other without the county, would support the indictment; for overt acts done outside the county of Dublin may connect him with the confederacy, so as to make him answerable for the acts of his confederates within that county; and one overt act within the county of Dublin would support the indictment. Was he a member of the Fenian confederation when the transactions in the county of Dublin occurred? Were these a levying of war? Were they done by members of a confederacy of which he was a member? Do you believe the testimony of Corydon, deposing to his being a member of the confederacy before the 12th of April? Do you consider

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the corroboration arising from the prisoner's having, on the 11th or 12th of April, held the high rank that he is proved to have done, at that time, in the confederacy, sufficient to show that he was a member of it for a substantial antecedent period? Does that, in your judgments, so corroborate Corlyon's as to satisfy you that the prisoner was a member of the confederacy on the 5th of March? Gentlemen, upon the whole, you will have to consider whether or not you are satisfied beyond any reasonable doubt of the prisoner's guilt. The law of the land, in that mercy which is part of its justice, declares that before any man can be convicted there must be affirmative proof, to the satisfaction of the jury, removing that presumption of innocence which, up to the giving of the verdict, stands around him like armor. That is only another way of saying that the jury are called on, not as a matter of mercy or of favor, but as a matter of right and law, to acquit the prisoner, if they have any reasonable doubt of his guilt. But in determining whether or not there be a reasonable doubt, which, of course, must be considered with reference to all the evidence and to every part of it, a jury are not called on to acquit on a fancy of the possibility of innocence. A possibility of mistake may, perhaps, be considered as existing in almost every inquiry that is human. What a jury are called on to do is, to apply to the matter before them that sound sense which each of them would himself apply in dealing with the ordinary concerns of life in which he had an interest. The law defines in no other way the manner in which a jury are to determine whether a reasonable doubt exists. The law does not otherwise define it, but leaves it to the jury to apply that judgment which they will apply in the ordinary concerns of life in which they have themselves an interest; and, acting upon these lights, to deal between the prisoner and the crown. If you entertain a reasonable doubt, you are bound to acquit him; but if you do not entertain a reasonable doubt, you are bound by the most sacred of all obligations, the obligation of the oath taken by you as jurors; you owe it to yourselves, to your country, and to your God, to give a true verdict according to the evidence.

PRISONER. My lord, will you permit me one word? I respectfully beg to submit, with reference to the rank you have referred to, that there is no corroborating evidence; it is simply referred to by Buckley. I would also impress upon the jury that I was not identified by Gallagher till the 12th of October, after his being five or six weeks in one jail with me, exercising in the same yard, and hearing my name called every day, and knowing that I was suspected of belonging to that expedition. I would respectfully

submit that there is no evidence as to the cargo of that vessel, no evidence to prove that that landing at Dungarvan—admitting a landing for the sake of argument—was for any illegal purpose, but only the admission made by Buckley, of a lot of hungry men running away from the vessel.

The CHIEF BARON. Most of these matters I have presented to the jury. Gentlemen, you cannot believe Buckley, unless his evidence is corroborated; but if you believe

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Buckley about the whole story of the Jackmel expedition, then, and then only, the fact of his rank is proved. With respect to the other matters, I have already observed upon them. You will take into account what the prisoner has said as to his own case.

PRISONER. You have not referred to the identification of me by Gallagher.

The CHIEF BARON. O, yes; I have said that there was evidence of identification by Gallagher. There is no question about the identification of Gallagher. You are G. Roche, I think.

PRISONER. Gallagher, my lord? You did not refer to it at all.

The SOLICITOR GENERAL. The prisoner was eventually examined by the magistrates, and identified by Gallagher, on the 12th of October.

The attorney general referred to that information of the 12th of October, in which Gallagher said the prisoner John Warren is one of the persons named in it.

PRISONER. That information was not given until after his being five or six weeks in the same jail with me.

The SOLICITOR GENERAL. The evidence was this: Gallagher made his first information before Mr. Labatt, in Sligo; then he made an information on the 15th of June, in Sligo, before Mr. Coulson. Some short time after that it appears that he was committed to Kilmainham or Mount Joy prison, some three or four weeks afterwards. Then on the 12th of October he made the information before Mr. Barton, in which he identified Warren.

The CHIEF BARON. He named Warren and Nagle.

PRISONER. My name was never mentioned until the 12th of October. What I want to impress on you is, that he never identified me until after he had been five or six weeks in prison with me in the one yard.

The CHIEF BARON. There was an information on the 12th of September.

The SOLICITOR GENERAL. Not by Gallagher, but by Buckley.

PRISONER. He was never brought before me until the 12th of October.

The SOLICITOR GENERAL. That answers what you say yourself. It was at Sligo he made his information, and not in the presence of the prisoner at all.

PRISONER. It appears that this is an important, question, by the manner in which it is evaded.

The SOLICITOR GENERAL. There is no evasion.

PRISONER. There is a direct evasion.

The CHIEF BARON (to the jury.) No doubt Gallagher was examined on the 27th of May, and then he made no statement in detail at all. Gallagher was examined on the 15th of June, and then he made no statement of a portion of the details that are important, as I pointed out to you; he made no statement at all of that portion of the case that occurred in the cabin and that implicates Warren. Gallagher never made any statement implicating Warren until the 12th of October.

PRISONER. Yes; he never was brought to identify me.

The CHIEF BARON. The information of the 12th of October is in these terms: "In the

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presence and hearing of Patrick Nugent, John Warren, and William Nagle, who stand charged with treason-felony, and with being members of a treasonable conspiracy."

PRISONER. I don't refer to that information at all, but to the circumstances of his having been five or six weeks in jail with me, and of his being then brought to identify me on the 12th of October.

The CHIEF BARON. The information of the 12th of October states that "he, the said prisoner Warren, was present all the time, and told me to take the book."

PRISONER. He was put into a yard with me, and then brought to identify me.

The SOLICITOR GENERAL. We must object to these matters.

The CHIEF BARON. The first time he made any statement implicating Warren was on the 12th of October, and I pointed out to the jury that that was after several persons were arrested, and that the whole of the evidence of Gallagher is to be taken with reference to the time at which he made his last disclosure, which necessarily affects his credit. But it is for the jury to say to what extent, if at all, it affects his credit.

PRISONER. My lord, it is a question of identification. This man was brought to Kilmainham prison and put into the same yard with me. He is not brought to identify me, but is discharged after five or six weeks; he is brought back after five or six weeks more, and is then brought to identify me.

The CHIEF BARON. All that is for the jury; that he was in jail, and that after he had been liberated from jail the information of the 12th of October, which first implicated

you, was sworn, is true. All that is before the jury, and all that the jury are bound to consider on your behalf.

The PRISONER. That is what I want to impress on the jury, and the question is, could he identify me when he was brought first?

The CHIEF BARON. Both of them had been previously in confinement. You heard the evidence as to the identification, gentlemen, and you will consider how far it goes to affect the testimony of the witness.

A JUROR. The date of the first information is the 26th of May.

The CHIEF BARON. Yes; and the second was made on the 15th of June, and that deposition was in Sligo.

The jury retired at 20 minutes after 4 o'clock, and returned to court at 5 minutes to 5 o'clock.

The CLERK OF THE CROWN. How say you, gentlemen, have you agreed to a verdict?

FOREMAN. Yes.

The CLERK OF THE CROWN. You say John Warren is *guilty* on both counts.

FOREMAN. Yes.

The CHIEF BARON. Remove the prisoner for the present.

The court adjourned to Monday morning.

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## SENTENCE ON THE PRISONERS.

SATURDAY, *November* 16, 1867.

The court sat at 11 o'clock to-day, when

The clerk of the Crown directed that John Warren, William Halpin, and Augustine E. Costello, you and each of you, have been indicted, tried, and found guilty of treason-felony, for compassing to depose our Lady the Queen; have you anything to say why the sentence of the court should not be pronounced on you?

The prisoner WARREN. My lord, I claim the privilege established by precedent; I have had no opportunity of making any remarks on my case, and I would now wish to say a few words.

The CHIEF BARON. State what you have to say. We are ready to hear you.

The PRISONER. I desire, in the first place, my lord, to explain, while ignoring the jurisdiction of this court to sentence me, and while assuming my original position—I wish to make a few remarks with reference to my reasons for interfering in this case at all. I know I can see beyond my present position the importance of this case, and I was desirous to instruct the jury, either directly or indirectly, of the importance of their decision, while never for a moment deviating from the position which I assumed. I submit, my lord, that I effectually did that, and they incautiously, and foolishly for themselves and for the country of which they claim to be subjects, have raised an issue which has to be settled by a higher tribunal than this court.

The CHIEF BARON. That is a subject upon which we cannot allow you to address us. We cannot suffer the place in which you stand to be made the arena for appeals to those who may sympathize with you in opinion either here or elsewhere. We cannot allow you to refer to any ulterior consideration beyond that which belongs to the business in which we are now engaged, and that is, the pronouncing of sentence upon you. As to that, you are at liberty to state anything you may have to say against that being done.

The PRISONER. I have said, my lord, all I intend to say on that subject. I will now refer to the nature of the evidence upon which I have been convicted; I consider that is a duty which I owe to myself, and I deem it a privilege which your lordship will allow me.

The CHIEF BARON. It is right for me to tell you that this is not the time or stage of these proceedings in which you are entitled to comment in detail on the evidence, with the view to show that the verdict should not be what it has been. We are not at liberty to act on a discussion of the propriety of the verdict, unless you can point out something in point of law which shows infirmity in that verdict.

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The PRISONER. I propose, my lord, to show that the verdict is contrary to the evidence.

The CHIEF BARON. I must again tell you that you are not at liberty to do that.

The PRISONER. I propose to state briefly, in answer to the question put to me, why the sentence of the court should not be pronounced on me. Do I understand your lordship to refuse me that privilege positively, and to stop and interrupt me by every means?

The CHIEF BARON. Certainly not to stop and interrupt you by every means, nor to refuse you anything to which you are entitled. But you are not entitled to impeach the verdict by a discussion at large of the evidence. We are bound by that verdict just as much as you are; that is the law.

The PRISONER. Have I not, my lord, the privilege of commenting on the evidence?

The CHIEF BARON. You are not at liberty to comment at large upon the evidence for the purpose of showing that the verdict was wrong. What in strictness you are entitled to do is, to show any matter of law which may affect the propriety of pronouncing of sentence upon you, assuming the verdict to stand.

The PRISONER. I have, therefore, to state that if you are determined, my lord, to take from me the privilege established by precedent in this court——

The CHIEF BARON. There is no such privilege.

The PRISONER. Has it not been accorded to every political prisoner sentenced in this court for the last three or four years?

The CHIEF BARON. They have been allowed to address the court. We will allow you to address us, and hear all you have to say, within the limits of what the law permits, in these, the last words which you can speak to us. The law does not allow us to permit, at this stage, the verdict of the jury to be impeached by detailed comments upon the evidence; the time for those comments was before the jury gave their verdict; but after the verdict has been pronounced, it binds us, as it binds you. I am now speaking as to a matter of fact. Anything in point of law that attaches infirmity to the verdict we will hear; and you are entitled to comment on all that, in point of law, tends to show why sentence should not be pronounced upon you.

The PRISONER. What position do I stand in now, my lord? I have been indicted with a number of others for taking part in the Dungarven landing; some of those have been tried; the case against others is virtually abandoned. I have been tried and convicted. Then what position do I stand in, my lord? Am I convicted on the evidence of Corydon, who swears that I belonged to the Fenian confederacy in 1863? Does that prove that I belonged to it in 1867? Am I guilty of the overt act of the 5th March, on which I stand convicted and await your sentence now?

The CHIEF BARON. You heard the law laid down by me to the jury, which I was bound to lay down according to established authority, that if they believed you belonged, on the 5th of March, to the Fenian confederacy, having for its object the

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deposition of the Queen, you were guilty of the acts done on the 5th March, whether you were present at them or not; for you were answerable for all the acts done by your co-conspirators in that confederacy in furtherance of its designs. That is the law laid down, and that law we were bound to administer.

The PRISONER. You instructed the jury at the same time, my lord, that the circumstance of my holding the position of a colonel, and belonging to the Fenian organization in '63, was sufficient corroboration of the evidence that I belonged to it in '67, and that is the point of your instructions on which I was found guilty.

The CHIEF BARON. You are under some misapprehension. I stated to the jury that your holding the rank of colonel was evidence for their consideration, in considering whether you had belonged to the confederacy at a period anterior to the 12th of April. I told them that they were at liberty to consider whether or not you would have been appointed to that rank if you had joined it then for the first time. I did not tell them that *proved* the truth of the testimony of the accomplices, but that it was a matter on which they were at liberty to consider that testimony.

The PRISONER. It is precisely the same thing, but expressed in different phraseology. Am I to understand, my lord, that I have not the privilege of addressing the court as to why sentence should not be passed against me?

The CHIEF BARON. You are not so at liberty to consider. You are at liberty to address the court, but you are not at liberty to comment at large on the evidence, and to prove that the verdict was wrong.

The PRISONER. Have I not the privilege of commenting on the evidence, my lord?

The CHIEF BARON. I have answered that already.

The PRISONER. What can I speak on, my lord? To what can I speak, if not to something connected with my case? I am not here to refer to a church matter, or any political question.

The CHIEF BARON. I have told you what we are bound to rule.

The PRISONER. I will state, my lord, that as an American citizen I do protest against the whole jurisdiction of this court, from the commencement, in arraigning me, in trying me here forcibly, and in convicting me on the evidence of a man whom your lordship termed to be of the most odious character. You instructed the jury pointedly and strongly on one occasion—but your subsequent instructions modified that instruction—that no respectable jury could act on his evidence, and that it was a calamity for any government to have to use him. You instructed the jury to that effect, my lord, and the jury afterwards found me guilty on his uncorroborated evidence. I do not want to say anything disrespectful to the bench or to the jury, but I want to refer to the nature of the evidence, and to see why I stand here as a felon to-day. It is a privilege which has been accorded to every one who stood in the same position previously as I now stand in. I will, my lord, further refer to matters in connection with this case, which, I sub-

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mit, are extraordinary. There is one part of it, especially, that which is called the cabin oath, to which so much importance has been attached. Let the jury look at me, and say if they believe that I am such a scoundrel or such an idiot as to take into the cabin a man like Gallagher, an ignorant man, and place a pistol to his head to compel him to take the oath, and then allow him to go on shore. I ask you, my lord, not to believe that I am such a scoundrel or such an idiot. I ask you to believe that no Christian man would be guilty of such an act of idiocy, and I ask you not to place any reliance on Gallagher's oath. I say, my lord, I never saw Gallagher until I saw him in Kilmainham. You see the nature of, and the manner in which the evidence against me was got up. It appeared to be by the interposition of the Godhead that each of these men was allowed to tell lie after lie; for though they were well trained, and received their lessons under able and experienced masters, they contradicted themselves word by word. These are what are called respectable men, forsooth, and their respectability is guaranteed by their evidence; but they have, I submit, perjured themselves. Gallagher, my lord, swore at first but one information, and that information, I submit, was the truth; it bore the impress of truth on it. He then swore a second information, and that second one was false. I say, my lord, that it is contrary to law to convict a prisoner on the evidence of a person who swore he was a perjurer; and, my lord, I may tell you that I have seen hundreds of times in America, cases where the judge sentenced the witness who perjured himself on the stand and sent him at once to prison. What is the fact, my lord? Gallagher was imprisoned in Kilmainham with me; he was taken to the same exercising yard with me; he was brought there first on the 1st July; he was exercising in the same yard with me; he knew my name well; he heard it called several times; he knew the acts for which I was imprisoned; and he was taken away on the 1st August. During all the time while he was in Kilmainham he never once identified me. He is brought back to Kilmainham on the 12th October, and out of 40 or 50 men he identifies only three. You will see, my lord, the impress of lies on the face of the whole of his testimony; for if he came on board the vessel in the ordinary capacity of pilot, he would do his duties as pilot, and when he had done them he would leave the vessel and get his pay. That is what would ordinarily happen in the case of a pilot, but not so in the case of the respectable Gallagher, for he swears that he was not only asked to pilot the vessel, but that he was taken down into the cabin, let into all the secrets, and made to swear he would not tell them when he went on shore. I submit, my lord, that what he swore in his first information had the impress of truth on it, and that all the subsequent informations were false, and that he purjured himself in them. I submit that from the commencement to the end of this case there is not the least shadow of evidence to show that there was any hostile intention to land on the coast of Ireland, and that the evidence as to the identity of the vessel would not stand for a single moment in a court where evidence and law would be respected, and where the

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evidence of perjurers and informers would not be tolerated. On the supposition that this phantom, this Flying Dutchman—which would be the better name to give her—existed, in what way does your lordship connect my name with it? The evidence is that the vessel seen in Sligo bay and the vessel seen off Dungarven harbor are one and the same. My lord, I fail to see that they are one and the same. In the first information sworn by Gallagher, there is nothing said about the dimensions or the tonnage of the vessel; but in his second information they are made to correspond with some scribbled figures found on Nagle, and she is set out as being 81 feet and 115 tons burden. The coast guard swore that she had double topsail yards, and that she looked like an American-built vessel; while Brown, the Dungarven fisherman, swore that she looked like a brigantine, with white sail, and about 350 tons burden. What evidence, then, is there, my lord, I ask, that the vessel seen in Sligo bay and the vessel seen in Dungarven harbor are one and the same vessel? Not a particle of evidence, I submit. I submit, also, that there is not a particle of corroborative evidence to prove that the vessel seen off the coast of Donegal, and the vessel seen in Dungarven harbor, with which you connect my name, are one and the same vessel, except the evidence of Buckley, who committed himself as a perjurer, the very first question he was asked with reference to his age, on that stand. As to the so-called landing at Dungarven, I submit, my lord, that you have no proof whatever that I shipped from an American brigantine in a hooker, or that I landed from the hooker at Dungarven, or any other proof to connect my name with that matter, except the evidence of the informer and perjurer, Buckley. Your evidence is that a number of men were seen to land at Helvick Head from a fishing-boat, which, it is plain from the evidence, took them off a vessel that was out at sea; and that two persons afterwards presented themselves on the road, who were not disguised in any way; that they hired a cart and drove them on towards Youghal. I submit, my lord, that the verdict of the jury is contrary to the evidence, and that there is not a particle of evidence corroborative of Buckley's to show that I was one of the men that were landed at Helvick Head or at Dungarven. Though you deprived me of liberty, though you indicted, arraigned, and convicted me as a British subject, while protesting against it,

and ignoring your jurisdiction to try me at all, I submit, my lord, I have proved that the case against me was fabricated and based on perjury. I stand here now, my lord, a convicted felon, the victim of a slavish, cowardly, perjured, false band of informers.

The CHIEF BARON. We can't allow you to indulge in observations of that kind; you must confine yourself to the questions as to why the sentence of the court should not be pronounced on you.

The PRISONER. Corydon swore in his informations, my lord, that he knew me to be a State center of the Fenian organization in Massachusetts in the year 1865, and after that he swore on the stand—he heard probably from a certain source that I would comment on his evidence—and he altered it to 1863. In his information he swore that he met me at several Fenian meetings in the year '65, but he never attempted to repeat

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that on his direct evidence on the stand. He says that I was a captain in the year '61. That, my lord, I submit I will disprove also; but first allow me to refer your lordships to the peculiar position in which your law places me. I am an American citizen, and as such I owe allegiance to that government, and to none other. I am a soldier in the United States army; my leaning was always for the army; I have fought for America; I belong at present to her national militia, and in case of war to-morrow between these two countries, England and America, my position is in the army. What would be the consequence? Looked at in the light of the present trial, if your general took me in battle, what position would I be placed in? I am found guilty of high treason, and should be shot; and if taken on the high seas I could be strung up on the yard-arm. The American government has given me an engagement, a contract, that, if there was anything wrong in the course she followed by adopting me as a citizen, it was to be settled between the United States and the British government; and instead of settling this matter with me, if there are complaints against or injuries caused by the government of the United States, it should be settled with that government, and not victimize me. The haste you showed in the matter when it was evident that the United States government were determined to settle the matter, and the haste you showed in bringing me to trial here, proves what the object of the Crown was. But although the spirit which will never bend will never be broken, I am almost blind, so as to be scarce able to see your lordship from where I stand, from the effects of the confinement to which not a human being but a wild beast should be subjected; and when your lordship will pass sentence on me, and remove me from the bastile in which I am at present to some other place, it is the greatest favor you can confer on me. Your law, I believe, my lord, claims even the sons of Irishmen, born in other states; but, strange to say, you don't seem disposed to interfere in that matter just now; you even claim the grandsons of Irishmen, for you claim as British subjects Andrew Johnson, our President, Secretary Seward, and Governor Fenton, of New York; and by your law General Washington, General Warren, and Benjamin Franklin lived and died British subjects, and you could hang the whole of them if convicted of high treason. My lord, though a very humble instrument when standing before you at this moment, my case, believe me, assumes a most remarkable and important size, and the present cases would form a great and momentous epoch in the history of these times. There is one point, my lord, to which I want to refer—I mean the manner in which my government has acted.

The CHIEF BARON. I can't allow you to engage in a discussion on that matter; we have nothing to do with the conduct of that government; we have only to administer the law of this country.

The PRISONER. I will only call your attention to one point. I wrote to the President of the United States, and I received a communication from Secretary Seward.

The CHIEF BARON. I cannot allow you to make any statement with regard to any

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communication with the government of the United States. I can't allow you to make any reference to anything done by any government. We have nothing to do with the conduct of any government; we have only to administer the law which we are sworn to administer here.

The PRISONER. I was only going to state why the high officials of your government——

The CHIEF BARON. I cannot allow you to enter into comments on the conduct of any official of any government. We have nothing to do with the conduct of officials even of our government. We are here to dispense justice according to law, and whatever officials of our government, or of the American government, may have done, cannot have the slightest effect on our judgment. It can neither affect us favorably or unfavorably as regards the prisoner, and it can neither affect us favorably or unfavorably as regards the Crown. We stand indifferent as to both. We have only to administer, for either, or against either, according as it applies, the law of the land.

The PRISONER. My lord, I ask no favor in the matter. I am ready for a full measure of sentence. I was going to state, my lord, that while neither your government nor the government of the United States had kept the promises which were made——

The CHIEF BARON. We cannot allow you to state what was promised by either our

government or the government of the United States. I have told you already that we have nothing to do with the conduct of either government.

The PRISONER. I will only call your attention to the correspondence that passed between your government and the government of the United States.

The CHIEF BARON. That I cannot allow you to do; with it we have nothing to do here.

The PRISONER. Then I must conclude, my lord. It is generally very hard to prevent me from saying what I have to say, and I am not aware that any one has succeeded in doing so up to the present, but your lordship has completely flanked me. My lord, I protest against the entire jurisdiction of this court. I have confidence in my government that they will see justice done to me, and that they will establish my right. The proposition of placing me in the position of the United States must stand or fall with the Constitution of the United States. If England is allowed to abuse me as she has done, and if America does not resent England's conduct towards me; if the only allegiance I ever acknowledged is not to be vindicated, then thirteen millions of the sons of Ireland who have lived in happiness in the United States up to this will have become the slaves of England.

The CHIEF BARON. I can't allow you to use your present position for an appeal to the sympathies of any person or party in America.

The PRISONER. What can I refer to; will your lordship tell me? You will not allow me to refer to Irish men; perhaps you will allow me to refer to and speak of Irish women.

The CHIEF BARON. My business is to tell you what you can't refer to. You can't

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refer to what may be the conduct or the acts of any government, or the acts of any people, whether in the United States or in this country. With them we have nothing to do.

The PRISONER. I must state, in conclusion, repeating that I ignore the whole jurisdiction of this court either to indict, arraign, or convict me, and that the sentence which you will pronounce on me will be received under protest by me. I now, my lord, return your lordship my sincere thanks for your forbearance with me so far, while, at the same time, admitting that you have taken from me a privilege established by precedent, and that has been accorded to every political prisoner tried in this court for years past. Give me now, my lord, the full measure of sentence. I promise you I will live longer than the British constitution.

(The prisoners, William Halpin and Augustine E. Costello, then severally addressed the court.)

The chief baron then proceeded to pass sentence. He said: John Warren, William Halpin, and Augustine Costello, you have each of you been convicted of treason-felony. That crime consists of the design to depose the sovereign of this realm from her royal authority. The indictment charged each of you several acts as overt acts manifesting that design; and sufficient proof has been given in reference to those overt acts to warrant your conviction. The jury in each case having been directed by the court to consider it, with a view to ascertain whether there was any ground for a reasonable doubt, in each case came to the conclusion, without much doubt, of finding a verdict of guilty. In your addresses to the court you have endeavored, each, to comment upon the evidence on which the verdict was found against him; and we have felt it our duty to stop you in a rediscussion, upon the present occasion, of matters which belonged to a former stage of the proceedings, when the jury had to consider that evidence. You, John Warren and William Halpin, were not defended by counsel; but you certainly, each of you, in the efforts which you made with reference to your defense, brought out most of the points for the consideration of the jury that were material for that defense. I, during the progress of the trials, endeavored, as it was my duty to do, holding the scales of justice evenly between you and the Crown, but dealing with men who were undefended by counsel, to lay before the jury all the matters which, as it appeared to me, I possibly could, in fairness to both parties, urge on your behalf. My learned colleague did the same in the case of the prisoner who was defended by counsel, and who has justly and fairly acknowledged that he had done so. With all the consideration that could be given to the case of each of you in the course of a prolonged investigation, and with all the efforts that could be made to lay before the jury every fact that could be applied in your favor, each of your juries came to the conclusion of finding a verdict of guilty against you. And though, during your addresses, you have made several com-

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ments on the evidence, I do not believe there was one of them that was not presented by myself, or by my learned colleague, to the jury by whom you were respectively tried. We have now but one duty to perform. We must act on the verdicts of those juries; and I have the concurrence of my learned colleague for saying that we see no reason to cast the slightest shade of doubt of the propriety of those verdicts, arising from anything that appeared upon the evidence on which they were found. You have

each of you addressed us some observations as to your positions as American citizens. At a former period of these trials, I had to remark on the state of the law upon that subject, both in this country and in America. I felt it my duty to bring the attention of two of you, and of the counsel engaged for the third, to what I shall now briefly state again, namely, that, according to the law of this country, he who is born under the allegiance to the British Crown cannot, by any act of his own, or by any act of any foreign country or government, be absolved from that allegiance. But I have also to observe, that some of the greatest legal authorities in America have laid down the same law as affecting not England only but America also. It may be a calamity to persons circumstanced as you were, that in accepting the privileges accorded by the government of another state you have done that which creates a conflict between two duties. You may have acquired all the privileges of American citizens. With these privileges no court in this country does or can interfere. Of whatever privileges you received there we cannot deprive you, if we would; and, for my part, I would not if I could, except so far as they conflict with the duties you owe to the sovereign of this realm. But while you may enjoy those privileges in America, yet when you come to this country, where your allegiance binds you by bonds from which you cannot be freed—here, in this country, you must be amenable to the laws which here prevail. And in America, and in the tribunals there, an American citizen, according to the authority of one of the greatest judges that ever graced the bench in that country, would be similarly dealt with under similar circumstances.

The crime of which you have been found guilty would once have been treason in England. It has been mitigated to felony. But by an enactment of the law, which pervades every part of her Majesty's dominions, and under the doom of which you must come when you pass within the precincts of the dominions of the British Crown, by that law it is treason-felony, punishable by penal servitude, to compass the design of deposing the Queen, and to evidence that design by an overt act of the party accused. That is the crime of which you have been found guilty. With respect to you, John Warren and William Halpin, you stand under circumstances varying somewhat in details, but almost identical in substance and in character. On the 5th of March last, it is now established and proven in evidence in these trials, indeed it is a matter of public notoriety, that an insurrectionary movement took place, which amounted to an actual levying of war against the sovereign of this realm. You, William Halpin, came to this country—having been

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previously in America, and having there served in the American army—you came to this country for the purpose of aiding in the organization of that insurrection. You were assisted by others in that project, both in America, before you came here, and here, after you arrived. You, John Warren, came to this country on an expedition to organize a similar insurrection, after the former one had failed, against the Queen's authority. In principle and character, the cases against both of you were the same.

I have already, in addressing the grand jury, expressed what has been frequently expressed from this bench, and in other places, astonishment that such a project as this should be entertained by sane men. It is amazing to think that men of your period of life—men of mature age and with full capacity for reflection, with all the experience of war and its results—for each of you appears to have been engaged in that remarkable conflict—one of the most remarkable of modern times—between the northern and southern States of America, in which millions were engaged, in which the party resisting the existing authority had numerous armies, accomplished generals, and all the material of modern warfare, and were yet worsted in the conflict—it is astonishing, I say, that notwithstanding all this, you could have entertained such a project as to organize an insurrectionary movement here for the purpose of shaking off the authority of the British Crown. I will not dwell upon the reasons which would show the utter fatuity of such a project, besides those derived from the total absence of all means of warfare, the nearness of this country to England, the presence of the most powerful navy in the world, and of a large and disciplined army within a few hours' distance, furnished with all the appliances of modern warfare. It would be absolutely impossible, if you succeeded for the hour, to maintain your success for a day. But astonishing as such a project was, it pales before the scheme of the *Jackmel* expedition, with a vessel of 115 or 120 tons burden, freighted with 40 men, and with, no doubt, a considerable number of arms—one wooden vessel only—proceeding to make an inroad upon the coast of Sligo, in Ireland. Yet it was as much an invasion—it was as much what is termed by the Americans (who I believe first used the word) a fillibustering expedition, as if it were ten times as powerful, for the design and object were the same. And this was not only after the failure of the insurrectionary design and movement of the 5th of March last, but it was after a variety of trials in this country in which a number of persons were convicted and sentenced to severe penalties—trials which also preceded the transaction of March last.

The law, for the violation of which this prosecution was instituted, is a law primarily applied for the protection of the sovereign and the maintenance of her authority, but it is also applied for the protection of the entire community over which the sovereign reigns, against the terrible calamities that would result from an insurrectionary movement of that character. It is not only the conflict that may take place, in which

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one party must be worsted, and in which success would be hopeless; but it is the amount of confusion and disorder which, even if it be suppressed instantaneously, must follow from the attempt, and the sense of insecurity that would ensue—these would in themselves constitute great calamities, far greater than mere public alarm. All the affairs of the country become disarranged; capital—that most sensitive of all sensitive things—shrinks from dangers of that kind, and the whole community feels the mischief. On that subject I will not, however, enlarge; I have done so before, and my brethren of the bench have likewise done so. I speak of it now for the purpose of showing that both of you, John Warren and William Halpin, have been engaged in precisely the same projects—the one to organize the insurrection of March last, and the other to organize a subsequent insurrection; that you both are guilty of not only the same offense in point of law, but of similar acts, and being guilty of similar acts, you must abide by the same doom. We have looked anxiously into the proceedings that took place both here and elsewhere with respect to former charges of a similar character, with the view, on the one hand, of awarding punishment adequate to the crime, and, on the other, of not inflicting punishment beyond the necessity of the occasion. We are of opinion, and I believe I speak the opinion of all our colleagues that have dealt with other cases of this kind, that what might by some be termed leniency would not be mercy; it would be cruelty—cruelty to those for whose protection the law is designed, and cruelty to those who may not have yet joined in projects of this character, and who might be tempted by too great leniency and by too light punishments to follow in your examples.

In conformity with former sentences pronounced in this court for similar offenses, the sentence we feel we are now bound to award against you will withdraw you for a prolonged period from all that you hold dear in the world. Truly did your brother prisoner say it will be the immuring you in a living tomb. It is impossible for any one who has witnessed these trials not to feel regret, not for the punishment which is to be inflicted, since it is the necessary consequence of the crime, but that you should have merited that punishment by such acts as those that have been proved against you. We lament to see the amount of intelligence, which you certainly exhibited, so misapplied. We, however, can only deal out the punishment which the law imposes. It is our stern and imperative duty not to falter or waver in the administration of the law; and acting under the influence of the obligations which that duty imposes upon us, we feel we cannot pronounce upon each of you, John Warren and William Halpin, a sentence less severe than that you be kept in penal servitude for a period of 15 years.

The prisoner HALPIN. It may be 15 years more, my lord, if you like. I will take 15 years more for Ireland any day.

The CHIEF BARON. Augustine Costello, we have looked with great anxiety into your case to find anything which would distinguish it from that of the others whom we have now sentenced. They were leaders in each of the proceedings. One assumed the rank

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of general, the other assumed the rank of colonel. They came here with the intention of acting as leaders. You were in a subordinate capacity. You are a very young man, apparently of an excitable temper, and by that I do not mean in the least to disparage you. We have looked into papers found upon you, or traced to you, which we have had an opportunity of seeing—which, fortunately for you, give considerable insight into your character—into the nature of your mind, the course of your thoughts and affections, and a certain amount of cultivation which your letters and other compositions certainly exhibit. There are indications in those writings which lead us to believe that, however you may be impressed now with the views to which you have given utterance, further reflection will lead you to a better consideration of your position, and of the projects in which you have been engaged. We have, therefore, thought that we were at liberty, in your case, to pronounce a sentence of somewhat less severity. Still it must be a severe one, and it will too well correspond with your own description of your anticipated doom. The sentence of the court is that you be kept in penal servitude for a period of 12 years.

The prisoner WARREN. I would respectfully say, my lord, that I would not take a lease of this kingdom for 37½ cents.

The prisoners were then removed.

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## *Mr. Seward to Mr. Adams.*

No. 2114.] DEPARTMENT OF STATE,
*Washington, December* 23, 1867.

SIR: Your dispatch of the 6th of December, No. 1489, has been received. I approve of the manner in which you have carried out the

instructions in my 2087. At the same time, I observe with regret that Lord Stanley has not found it convenient to indicate any practical way of removing the difficulties thus brought to his notice.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, December* 24, 1867.

Employ counsel for Burke, at reasonable cost.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c., &c., &c.

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*Mr. Adams to Mr. Seward.*

No. 1502.] LEGATION OF THE UNITED STATES,
*London, December* 24, 1867.

SIR: I have to acknowledge the reception from the department of dispatch No. 2106, of the 9th of December. It is with great satisfaction that I learn that the government is disposed to view my course in the case of the prisoner Gould, at Manchester, as founded on reasonably strong grounds.

Subsequent events have only contributed to confirm me in my views of the propriety of it. The deplorable consequences of the attempt on the prison at Clerkenwell have contributed much to destroy all further sympathy here with persons capable of devising similar schemes. It would seem as impossible to place them within the category of a "meritorious political movement," alluded to in your dispatch, as it would have been with us to shield the incendiary who attempted to destroy the New York hotels, and still more the assassins of President Lincoln and yourself, under the same plea. Accordingly, these last were all executed by the decree of our tribunals. The united testimony of all Christian ages established a clear line of distinction between open war and clandestine attempts upon individual members of society. The effect of the one may be to bring about ultimate results of value to the world. That of the other is only to shake the foundations of confidence between man and man, so far as to unsettle society without effecting any public good whatever.

It may be doubted whether at any time since the discovery of the scheme of Guy Fawkes there has been so much of panic spread among families throughout this community as at this time. The newspapers are filled with alarming reports, and with accounts of the measures of repression contemplated. The consequences may be serious, not so much to the perpetrators of these offenses as to multitudes of the very class which they are supposed to intend to befriend. I think it would now be very unsafe for Irishmen to attempt to hold a meeting for any purpose in any great town in England. The government felt compelled to prohibit one which was called here for the declared purpose of disavow-

ing all sympathy with the outrage, on that ground alone. There is danger of a general discharge and proscription of these people, most of whom are laborers earning their daily bread, and a very large proportion of whom are doubtless wholly innocent. The consequences to themselves, not less than to the community at large, may easily be foreseen. The chief sufferers will be those least contemplated at the outset. Under these circumstances, it does not seem to me that the mode of operation thus resorted to can ever deserve to be classed as an incident to a meritorious political movement, or, if pushed much further, is likely to be productive of any better ultimate result than a passionate and vindictive retaliation upon a race, without discrimination between the innocent and the guilty.

In this view of the difficulties of the case, it seems extremely hazardous for persons not members of the community to undertake to judge of the propriety of the course of repression which it may be driven to adopt. Certainly, down to this time, the policy of this government cannot be charged with extreme severity. It has, on the other hand, given rise to more or less of popular dissatisfaction, on the ground of its feebleness and lenity. In regard to these conflicting opinions it is my province not to adopt either. I have endeavored only to present to you the exact state of the facts, so as to enable you to judge of the great difficulty in any case calling for intervention of steering clear of offense between them.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1503.] LEGATION OF THE UNITED STATES,
*London, December 24, 1867.*

SIR: In accordance with the directions contained in your dispatches Nos. 2102 and 2103, of the 29th of November and 2d of December, I obtained to-day an interview with Lord Stanley, for the purpose of reading to him the contents of the first. After having done so I left a copy, as directed in No. 2103.

His lordship, on receiving it, asked me whether I was in possession of any later views of my government on the subject of this dispatch. I promptly responded in the negative. I considered the negotiation as now closed, without a prospect of reopening it, and had so written home.

His lordship then said that he had just received a letter from Mr. Ford, at Washington, which he would be glad to have me read and give him my impression of its meaning. He then handed it to me, and I looked over it carefully. It was dated the 8th instant, and reported a conversation the writer had just had with you. The substance of it was, according to him, that you said you could not recede from the position of holding the British government responsible for the consequences of the proclamation of neutrality; hence, that all prospect of success from the proposal of arbitration, made with an exception of that point, must be regarded as over. Neither could you make any new offer to negotiate, for the United States felt itself like a party injured by a severe blow, who could not properly initiate a proposal for reparation from the party that had inflicted it. In order to get rid of the awkwardness of

such a position, you suggested the possibility of his lordship's proposing to merge this particular question in the mass of matters now remaining open between the countries, and lumping them altogether in one treatment or negotiation. You closed by hinting that an avenue would remain open to his lordship through the answer which he might make to the last note which you had written—in other words, to the dispatch No. 2102, which I had just communicated.

After reading it, I observed that this view of the subject was, in some measure, new to me, and that I could not undertake, with my partial comprehension of it, to give him many explanations having authority. If it was the intention to proceed by the customary way of negotiation between the countries, in my opinion the brief remnant of the term of the administration would expire before much progress had been made. This was said in view of the fact that there must, after all, be some precision arrived at in defining the controverted points. The British claims would require examination, and perhaps evidence to substantiate them, before they could be conceded. The same thing would happen with ours, which were larger, and more complicated with disputed questions.

His lordship said that he did not quite understand it. He had regarded the main question as involving a claim put forth for damages, which it seemed to him the part of the person considering himself aggrieved to advance; but he was not strenuous on that point. A more serious difficulty would perhaps lie in the fact that the private claimants under what were, after all, the gravest questions, might not be well content to see them liable to be mixed up and bargained away against other points in which they were not interested.

I said that there was the more ground for such an objection in the fact that precisely such an event had happened in a former treaty of ours with France. The effect of it had been, in that case, that the country had received a benefit for the surrender of large claims for unlawful captures of private property at sea, but that from that day to this not a farthing of compensation had ever been made good by it to the owners of the claims thus abandoned.

His lordship concluded by saying that he had but just received this letter, and he should endeavor to give it the most careful reflection; but at present he could not perceive any course open to him. The papers would probably be all laid before the House of Commons at the adjourned session, when he would be called upon to make his explanations. He should endeavor to be prepared for the occasion.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2115.] DEPARTMENT OF STATE,
*Washington, December* 25, 1867.

SIR: Your dispatch of the 7th of December, No. 1490, has been received. The Secretary of War *ad interim* reports that Ricord OS. Burke was in the volunteer service of the United States from 1863 until the close of the war, when he was serving as captain, and was honorably discharged on the 13th of June, 1865, and that his military record is deemed an honorable one.

By the President's direction I telegraphed to you yesterday to employ counsel for Burke at reasonable cost.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1504.] LEGATION OF THE UNITED STATES,
*London, December* 26, 1867.

SIR: I have to acknowledge the reception of a telegram by the cable, dated the 24th instant, directing me to employ legal assistance in behalf of Mr. Burke, at reasonable cost.

Unfortunately, the qualification is a difficult one to construe, for the charges would probably be at once multiplied the moment it was known by whom they were to be borne. Mr. Burke has already had assistance provided for him by his friends. I shall endeavor to place the matter in such a shape that the government will only incur the amount of charge which will have been agreed upon on the supposition that his friends are to defray it.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2116.] DEPARTMENT OF STATE,
*Washington, December* 27, 1867.

SIR: I have received your dispatch of the 11th of December, No. 1492, and have carefully read the papers touching the law of expatriation to which you refer.

They are acceptable indications of a disposition in a certain quarter to relieve the two governments of the embarrassments which have arisen from the unnecessary and indiscreet assertion in Great Britain of a principle which has become practically obsolete. It is expected that Congress will, immediately after reconvening, bring the legislative department of this government explicitly into concord with the executive department upon the question. When that shall have been done, the President will be prepared to express his official opinion concerning it for the information of her Majesty's government. You are quite right in saying that it is very desirable to remove the causes of future collision on the subject. At the same time I think it necessary to say that, in view of the failure hitherto to obtain a satisfactory settlement of our complaints against Great Britain which occurred during the late rebellion in the United States, and in view also of the severity which continues to be practiced by the courts of law in Great Britain discriminating against native Irishmen duly naturalized in the United States, I do not think that a situation exists in the United States favorable to the initiation of negotiations by this department limited to the single purpose of obtaining a revision of the law concerning expatriation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

*Mr. Seward to Mr. Adams.*

DEPARTMENT OF STATE,
*Washington, January* 6, 1868.

SIR: Your dispatch of the 1st of December, No. 1499, has been received. It contains your resignation of the office of envoy extraordinary and minister plenipotentiary to the United Kingdoms of Great Britain and Ireland, a proceeding for which you had kindly prepared the way in a previous informal correspondence.

The resignation will be accepted. I am charged, however, with the duty of saying that the President regrets profoundly the necessity which constrains you to retire from your important field of public service. If this regret is attended by less anxiety now than it would have been heretofore, it is only because you will leave the interests of the United States improved and rendered hopeful by sagacity, assiduity, and ability, which cannot fail to be universally acknowledged. Proceedings will be taken for the appointment of your successor within the period which you have indicated.

The President indulges me with the privilege of expressing my personal feelings on the occasion. The official ties between us, which are now to be sundered, were formed in the darkest hour our country has ever known—darker, as I trust, than she is to know again in your lifetime or in my own. They have been continually subjected to such strains as few political relationships can endure. The memory of the association will be among the most cherished which will survive my own connection with the public affairs.

With earnest wishes for your future welfare and happiness, I remain, sir, your very obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1513.] LEGATION OF THE UNITED STATES,
*London, January* 8, 1868.

SIR: I have to acknowledge the reception from the department of dispatches Nos. 2112, 2113, and 2114.

During the past week the panic occasioned by the affair at Clerkenwell has been slowly subsiding, although the attempts to do mischief have not altogether ceased. Some of the efforts made in Ireland to get possession of gunpowder appear to have been successful.

The projects upon the post office in London, through the agency of packets stuffed with explosive materials, have generally failed. The most serious of these, which was undertaken at the distributing office in this district, does not appear to have been noticed in the newspapers. No discovery has yet been made of the origin of these movements.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D C.*

*Mr. Adams to Mr. Seward.*

No. 1516.] LEGATION OF THE UNITED STATES,
*London, January* 8, 1868.

SIR: I beg to call your attention to a leader in the London Times of this morning, a copy of which I transmit, following up the subject of the law of allegiance discussed in the same paper on the 11th of December last, reference to which was made in my dispatch No. 1492, of that date.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, January 8, 1868.]

The United States Congress is already acting upon the President's suggestion, and the liabilities of naturalized citizens must soon become the subject of serious negotiation. On the 19th of last month there was a debate in the Senate upon a petition soliciting protection in general terms for American citizens domiciled abroad. The immediate occasion of this petition appears to have been the revival of an old dispute with Prussia respecting the alleged claims of that power to the military service of Prussians naturalized in America but actually residing in the country of their birth. Now that Prussia represents North Germany, and that a rigid system of conscription is established throughout the confederation, the question has acquired a new importance, and will not be solved without difficulty. The debate, however, inevitably expanded into a discussion of the still larger question opened by the Fenian prosecutions in Ireland. Senator Conness, who spoke in a very hostile spirit towards this country, stated that American citizens had been convicted in our courts not only for acts done but for words uttered in America; and Mr. Reverdy Johnson expressed great indignation at the refusal of a jury *de mediatate* to natural-born British subjects afterwards naturalized in America. The matter had previously been referred to the Committee on Foreign Relations, but Mr. Sumner, as chairman of that committee, declared that it would not be shelved there. He added that, in his opinion, the unrestricted permission of emigration by Great Britain, coupled with the doctrine of perpetual allegiance, involved a downright absurdity, and predicted that, on a candid examination, our government would not maintain the latter claim. In the mean time large meetings have been held in various parts of the Union to assert the rights of "foreign-born citizens abroad," and the House of Representatives has passed a resolution urging the Committee on Foreign Affairs to inquire forthwith into the alleged maltreatment of American citizens by the British authorities in Ireland.

We cannot be surprised, and we ought not to be offended, at the keen interest manifested by the Americans in the principle which, as they suppose, is at stake. The whole number of foreign-born citizens naturalized in the United States has been estimated to exceed 4,000,000, at least half of whom are immigrants from British territories, and more than one-third from Ireland alone. If the strict theory of perpetual allegiance were enforced, any of these Irish-Americans who might serve against Great Britain in the armies of the United States would be guilty of treason against his lawful sovereign, and, if captured, might be punished accordingly. Of course, the law would never in practice be carried to this length, but a nation so largely composed of foreign element must naturally rebel against a rule which, if applied, would produce such consequences. Mr. Sumner, however, went too far when he maintained that it was peculiar to English jurisprudence and is not recognized in the United States. On the contrary, though disputed in one case by an American secretary, it has been admitted, we believe by all American judges and jurists of repute, down to General Halleck. Mr. Justice Story himself, though he points out that no state can give an extra-territorial operation to its laws by requiring another state to execute them, carefully abstains from denying its right over natural-born subjects returning within its own jurisdiction. He elsewhere affirms this right in express and unqualified language. "An offense," says he, "may be committed in one sovereignty in violation of the laws of another, and if the offender be afterwards found in the latter state, he may be punished according to the laws thereof, *and the fact that he owes allegiance to another sovereignty is no bar to the indictment.*" Nor is this all; for the same eminent authority negatives, as if by anticipation, the untenable notion that American legislation can affect the *status* of natural-born British subjects, or any other persons, in an English court. If our com-

mon law cannot govern the rights and liabilities of native Irishmen, so long as they reside in America, it is equally certain that no American law can govern those rights and liabilities when they return to Ireland. Such matters are exclusively within the province of municipal enactment, and it so happens that, whatever conflict may exist between the interests of the two countries, there is here no conflict between their respective codes. This, indeed, is fully acknowledged in one of the resolutions carried at a recent "indignation" meeting in Illinois, which calls upon Congress "to define by law the right of expatriation, *recognising the right of American citizens to change their allegiance, thereby setting an example to Europe, and depriving foreign governments of the plausible objections now urged against our position in this matter.*"

On the other hand, some misapprehension seems to prevail in America as to the nature of the charges upon which American Fenians have been tried in Ireland. We have not the indictments or detailed report of the proceedings actually before us, and are not, therefore, in a condition to prove a negative; but we are not aware that any prisoner now under sentence was tried for treasonable acts committed in the United States. No doubt a natural-born British subject might have been so tried under the treason-felony act had the law officers of the Crown thought proper so to frame the charge; but, to the best of our belief, a different course has been pursued, and most, if not all, the party, who disembarked from the Erin's Hope were actually tried for offenses committed in Ireland, or within three miles of the Irish coast. General Warren, in particular, who has addressed a memorial to the American Senate, alleging that he was in New York when his supposed crime was perpetrated, was a prominent leader among the fillibusters who attempted to land arms at Sligo, and one of those who compelled the pilot to take an illegal oath. Had he simply attended Fenian meetings at New York, and revisited Ireland peaceably, he might never have been arrested at all. It is not difficult to account for the erroneous impression which has possessed the minds of the American public. In the first place, although the actual crime may have been committed on Irish soil or in Irish waters, a great deal of the evidence connecting the prisoners with the Fenian conspiracy relates to interviews and conversations at New York. To exclude evidence of this kind would be manifestly unreasonable, but to admit it is a very different thing from treating Fenian recruiting in America as treason against her Majesty, however clearly this principle may be sanctioned by our present law. Again, the rejection of Warren's claim for a jury *de mediatate linguæ* has been interpreted in America as if it indicated an intention to strain the obligations of allegiance, whereas the point was started by the prisoner, and not by the Crown, and could not have been decided otherwise by any court, whether English or American. But the less ambiguous the existing law is, the stronger are the arguments for its revision, and we cannot but regret that more than 50 years have elapsed since the peace of Ghent without an effort to place it on a more satisfactory footing. It is not, indeed, correct to identify the issue now raised with that which led to the war of 1812, for Great Britain then insisted not only on the indefeasible allegiance of her subjects, but on her right to visit and search American ships for the purpose of impressing them. Still, the conclusion of that war afforded a good opportunity of limiting once for all the privileges and duties of allegiance. Upon grounds of international policy, it is highly expedient that what ought to have been done in 1814 should be done now, before new difficulties arise. Should any overture have been made with that object by the American government, we trust it has been favorably entertained by Lord Stanley; and if no such overture has been made, we trust Lord Stanley will take the initiative in proposing a basis of settlement.

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### *Mr. Adams to Mr. Seward.*

No. 1517.] LEGATION OF THE UNITED STATES,
*London, January* 11, 1868.

SIR: I have to acknowledge the reception of your dispatch No. 2115, of the 25th of December, relative to the case of Ricord OS. Burke.

Mindful of the limitation placed upon me by the terms of your telegram I determined to authorize Mr. Morse, the consul at this place, carefully to investigate the matter, and, without committing the government to bear all charges in the way that has led to such great expense at Dublin, to promise such funds as may be expected to answer all useful purposes. He reported to me a day or two since that he had arranged the matter at a limit of £150. This, however, was based on the expectation tha

the trial would be held in London. Since then the preliminary examinations have been closed, and the prisoner has been held over to take his trial at Warwick. Whether this will make any difference in the cost of retaining the best counsel I do not yet know.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1518.] LEGATION OF THE UNITED STATES,
*London, January* 11, 1868.

SIR: I have the honor to transmit a copy of the London Times of yesterday, with another communication from Historicus, on the subject referred to in my dispatches No. 1492 and No. 1516.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, January 10, 1868.]

BRITISH CITIZENSHIP.

*To the Editor of the Times:*

SIR: The question of citizenship is evidently about to assume an importance in international discussion which justifies a return to the topics to which I have already asked your readers' attention. Not only in America, but in France, issues are being raised on this subject of the greatest consequence. The military authorities in France, under the pressure of their new military laws, are questioning the right to exemption from conscription of the children of foreigners born in French territory. Yet, unquestionably, by the English law such persons are British subjects, whose allegiance would be seriously compromised by a compulsory foreign enlistment. It is not a pleasant predicament for a *Civis Romanus* to find himself placed in, if it should chance that he is liable to be hanged in England if he serves in the French army, and to be shot in France if he refuses to do so. It is high time for law, whether international or municipal, to clear itself from such a scandal.

It seems hardly necessary further to labor and demonstrate that the English legal doctrine in its present form is incapable of defense. I may, nevertheless, point out that in my last letter I considerably understated the preposterous consequences which may be logically deduced from it. The following passage, from Lord Bacon's great argument in the case of the *post nati*, carries the doctrine of citizenship much further than the third generation, to which I had limited it:

"Nay, if a man look narrowly into the law in this point he shall find a consequence that may seem at first strange, but yet cannot well be avoided—which is, that if divers families of English men and women plant themselves at Middleborough, or at Rome, or at Lisbon, and have issue, and their descendants do intermarry amongst themselves without any intermixture of foreign blood, *such descendants are naturalized to all generations*; for every generation is still of liege parents, and therefore naturalized, so as you may have whole tribes and lineages of English in foreign countries. And therefore it is utterly untrue that the law of England cannot operate to confer naturalization but only within the bonds of the dominions of England."—2 *Gt. Tr.*, 585.

Now, this argument was raised on the law as it stood in the time of James I, when it was necessary that *both* parents should be British born in order to confer citizenship on a child born abroad. But the reasoning is equally applicable to the modern statutes, by which a British father alone communicates the quality of citizenship to his children. Now, observe the consequence. An Englishman goes abroad; his son, by force of the statute of George II, is made to all intents and purposes whatsoever a British subject.

The son, therefore, is as much a natural-born British subject as his father was before him, and therefore his son again, by force of the statute, becomes a British subject, and by the same reasoning his son's son, and so on *ad infinitum*. And, therefore, as long as there are descendants in the male line they will, as Lord Bacon says, be "naturalized to all generations." I confess I should have hesitated on any authority less grave than that of Lord Bacon to impute to the English law consequences so monstrous. That they do, as he says, "seem at first sight strange," will not be disputed; whether they "cannot well be avoided" is just the point we have to consider. Mr. Westlake, in his valuable work on "Private International Law," has suggested several methods of interpretation with a view of escaping from these absurdities; but he does not seem himself much to rely upon them, and I confess they appear to me more ingenious than satisfactory. And, indeed, the case of the Athlone peerage affords an example in which the doctrine was practically applied. Godart de Ginckell, a Dutchman, was created Earl of Athlone in 1692. He subsequently left England in disgust, I believe, at the treatment which foreigners met with in the reign of William. None of his descendants returned to England till 1795, under the stress of the French revolution, and one who was fifth in descent from him claimed, and actually took his seat in the Irish parliament, as seventh earl. I observe that Mr. Broom, in his admirable Commentaries on Constitutional Law, pp. 48, 49, takes the same view that I have already expressed, that the citizenship conferred by the statutes of George II and George III is of an obligatory, indelible, and not of an optional and defeasible character. Indeed, however preposterous the result may appear of compelling a man under such circumstances to become a British subject, whether he wishes it or not, I do not see how it is possible to place any other construction on the language of the statute.

The result of the whole seems to be that any one whose descent, though in the hundredth generation, can be traced in the male line to a British parent is a British citizen, enjoying all the rights and subject to all the duties which attach to that condition, and that though by successive foreign marriages the original British blood may have been so diluted as to be no longer traceable. I do not precisely know the pedigree of Marshal Macmahon, but I think it probable that in the eye of the English law he is as much an Englishman as Field Marshal Sir J. Burgoyne, and therefore liable to very serious penalties here for the violation of English neutrality at Solferino and Magenta. And if a male ancestor of General Grant emigrated to America at any time since the recognition of the independence of the United States, (I say since the recognition of independence, because that act was admitted to dissolve the allegiance of the then residents of the United States,) I am afraid the commander-in-chief of the armies of the United States would have no defense to a prosecution in this country, at the suit of a common informer, for a breach of the foreign enlistment act by the part he took in the American civil war.

I will therefore assume that judgment must go by default against the English doctrine—at least, till it finds a defender. I think I may confidently say that we are the single nation in Europe which maintains the principle of indefeasible citizenship and of indelible transmitted allegiance. In the time of Bynkershöek, as I have before pointed out, the Russians, the French, and the Chinese shared with us this distinction. What may be the present doctrine of the Chinese I am not aware. The French view I have already stated. The Russians hold, if possible, a more absolute doctrine of expatriation, for the mere departure from the realm without leave opperates as an actual denaturalization, and, accordingly, on a recent occasion, a Russian who had become a naturalized American subject was, with the assent of the American minister, ordered to leave Russia, as having ceased to be a Russian citizen.

The Prussian doctrine on the subject of expatriation is very precisely defined in the law of December 31, 1842:

"ART. 15. The equality of a Prussian subject is lost.—1, by discharge at the subject's request; 2, by sentence of competent authority; 3, by living 10 years in a foreign country.

"ART. 17. This discharge cannot be granted in derogation of duties of military service.

"ART. 19. Discharge, except in these cases, *cannot be refused in time of peace*. In time of war special regulations are made.

"ART. 20. The document of discharge effects at the time of its delivery the loss of the quality as Prussian subject.

"ART. 21. Discharge includes the wife and minor children."

Thus it will be seen that, subject to the performance of the stipulated military duty, the Prussian government recognizes an absolute right of expatriation in its subjects, for the discharges cannot be refused in time of peace; and an absence for 10 years without leave operates in itself as a loss of nationality, subject, however, to the claim of military service in the event of return to the native state. It is this last claim which has led to much controversy between the American government and the German States, and which was specially pointed at in the President's recent message. The correspondence, renewed at various periods, and extending over a space of 20 years, will be

found at length in the Senate Executive Documents, 1st session 36th Congress, vol. 2, 1859-'60.

It resulted generally in the German governments claiming the right as against the naturalized American, but practically waiving its exercise in particular instances. At the end of 1865 Count Bismarck made a proposal to the American government to recognize the absolute denationalization and immunity of all persons who had emigrated before the age of 17, or who had been absent from Prussia five years. (American Diplomatic Correspondence, 1866.) It seems astonishing that Mr. Seward should have declined so favorable a compromise. This question of military conscription, though one of great and increasing consequence to the military powers of the continent, is one with which, happily, we have little concern. The correspondence is, however, interesting as raising a discussion of the principles of expatriation with which we are occupied.

The important point to be noted is that, subject to conditions which the several states have thought fit to impose with reference to the protection of their own interests, all the European governments recognize a regulated right of expatriation.

I now proceed to examine the state of this question in America. If the argument of *tu quoque* were ever good for anything, which it is not, it would hold to the greatest extent against the United States. We may have a bad doctrine on this subject, but they are in that worse situation, of which it is said, "*misera est servitus ubi jus incertum;*" for on this subject America can be said to have no ascertained doctrine at all, whether legal or political. I cannot pretend, within the limits of your columns, to enter into a full critical discussion of the conflict of American authorities on this head.

Those who care to enter more minutely into the matter will find it very fully treated in Kent's Commentaries, volume 2, section 25; in a long note in the appendix to Lawrence's edition of Wheaton, and in a note to Mr. Dana's recent and most excellent edition of the same works, and also in Mr. Caleb Cushing's elaborate opinion (Opinions of Attorneys General, volume 8) on this subject, to which I shall at some future time refer at greater length. This paper, indeed, exhausts the subject, and has a special importance from the fact that in America the Attorney General is a member of the cabinet. For the present I must confine myself to a summary of the results.

Various attempts have been made to obtain from the Supreme Court of the United States a recognition of the right of expatriation in American citizens. These attempts have always failed. The American courts, not unlike our own, are astute to escape from the decision of questions of principle not necessarily involved in the case before them. The cases in which the plea was raised were generally those where the act of expatriation was, in fact, a part of the offense brought under the jurisdiction of the court, as in the case of citizens who had accepted a foreign naturalization for the purpose of violating the law of the United States. Of course, in such cases the plea of expatriation was summarily rejected. But the court, though carefully avoiding a distinct denial of the right of expatriation in all cases, have always declined to assert or to define such a right. As in the cases I quoted in my former letter, the courts have constantly indicated that it belonged to the legislature to prescribe the conditions of such a right, for which it was felt that the provisions of the common law, which it was their business to administer, had made no provision. The cases are fully reviewed by Kent, and his conclusion is thus stated:

"The better opinion would seem to be that a citizen cannot renounce his allegiance to the United States without the permission of the government, to be declared by law; and that, as there is no existing legislative regulation on the case, the rule of the English common law remains unaltered."

It is very plain, then, that before the Americans can criticise or complain of the defects of the laws of other nations they must first set to work to show what they consider to be right and politic as against themselves by a system of legislative regulations which their judges have for 70 years been constantly demanding, but which their statesmen have hitherto failed to supply.

Thus much may suffice upon the subject of the legal doctrine of expatriation in the United States. It is necessary now to consider a far more important subject, viz, their diplomatic doctrine. I need hardly say that the diplomatic doctrine is conversant with a totally different aspect of the question from that which is involved in its legal bearings. The law has regard to the duties and the rights of the citizens in respect of the state of which he is a member. Diplomacy has to do with the duties and the rights of the citizen towards a foreign state in which he may happen to be resident or concerned. To speak in general terms, the law has to do with that which his own state can claim against a subject. Diplomacy has to do with that which the government of the subject may claim in his favor against a foreign state. Most governments have thought it necessary to observe some measure and proportion between the domestic doctrine they themselves enforce and that which they seek to enforce against others. It would be strange if a country which does not permit expatriation to its own citizens insisted on enforcing such a right in regard of the citizens of other countries who had accepted its naturalization. Yet this, or something like it, is, in fact, what the American govern-

ment claims to do. Though there is no law of the United States by which a citizen of theirs could divest himself of his allegiance to his own country, they do in fact claim to assert against other states a right which they have not yet admitted in their own. While their courts declare that there is no law by which any American citizen who should have accepted the citizenship of a foreign state can divest himself of his allegiance to his own country, the American foreign office demands on the part of its naturalized citizens, as against other states, that their primitive allegiance should be treated as absolutely dissolved. This is a sort of game of "heads I win, tails you lose," in which no government can be expected to acquiesce. Nor, indeed, has the American diplomatic doctrine been consistent with itself at different periods. From the time of Mr. Wheaton, in 1840, down to the year 1859, the American government distinctly disavowed any right to interpose in favor of naturalized citizens who had returned to the country of their origin. The language of Mr. Wheaton on this point you have already cited. It is sufficiently precise. Mr. Wheaton thus writes to a naturalized American citizen who sought his protection:

"Having returned to the country of your birth, your native domicile and national character revert, and you are bound in all respects to obey the laws exactly as if you had never emigrated."

The same view of the reverter of the national character upon return to the country of birth was consistently adopted by successive American Secretaries of State—by Mr. Marcy, Mr. Webster, and Mr. Everett, (*vide* Senate Documents, already cited.) As far as I can make out, it was Secretary Cass who, for the first time, in 1859, set up on behalf of naturalized citizens of the United States an absolute right of expatriation as against the state of their birth. In a dispatch to the minister at Berlin he writes:

"The doctrine of perpetual allegiance is a relic of barbarism repudiated by the United States ever since the origin of our government. [Query: When and where?] The moment a foreigner becomes naturalized his allegiance to his native country is severed forever. He experiences a new political birth. A broad and impassable line separates him from his native country. He is no more responsible for anything he may say or do, or omit to do, than if he had been born in the United States. Should he return to his native country, he returns an American citizen, and in no other character," &c.

On this passage General Halleck, in his very well compiled *Digest of International Law*, published in 1861, makes the following remarks:

"This position is certainly somewhat in advance of that assumed in the previous diplomatic correspondence of our government, and by some is thought to infringe upon the universally conceded principle that sovereign states have the right of municipal legislation and jurisdiction over all persons within their own territory; and that while we have a perfect right *within our jurisdiction* to disregard the dogma of universal allegiance incorporated in the laws of other states, they have an equally incontestable right *within their jurisdiction* to assume that *our* municipal regulations on the subject of naturalization do not cancel their statutes enjoining the charges and obligations, military or otherwise, which spring from the theory of allegiance embodied in *their* laws. If this view of Mr. Cass be correct, the right of expatriation is not only general, but indefeasible."

Mr. Seward seems to have followed the lead of Secretary Cass in this matter. I need hardly say that the governments of Europe have declined to acquiesce in this *volte-face* of the American foreign office. It may be (as I think it is) expedient that the whole of this question should be reviewed in a candid and friendly spirit, and that the principles on which a transfer of citizenship is for the future to be permitted and recognized should be regulated by international negotiation; but it is not tolerable that a government should, in the phrase of Lord Castlereagh, "turn its back upon itself," as the American government have done, and assert as indubitable rights claims which their most eminent jurists and statesmen have for a long series of years admitted to be unfounded. We may be willing to concede from policy more than can be demanded of us as of right, but we shall take as the basis of negotiation the law as laid down by Mr. Wheaton, and not that *improvised* for the occasion by Secretary Cass.

Before the American government can properly urge any demands upon the subject against foreign governments, they have, as we have seen, a good deal to do at home. They have first to settle for themselves a law of expatriation for their own subjects, which at present they do not possess. When they have done this they will, at all events, not be open to the retort, "Physician, heal thyself." But there is a yet more material point which they have to settle, and that is the question of their own citizenship. The whole of the American law of citizenship is in a state of inextricable confusion. The Attorney General Cushing, in the opinion I have before cited, says:

"It may happen that by the law of a given state a person shall be a citizen thereof and still not a citizen of the United States. Citizenship, whether acquired by birth or naturalization, is not a thing specifically defined in its elements either by the Constitution or by the laws of the Union."

Now, I venture to think that, before extraordinary immunities are claimed for

American "citizens," foreign states should be placed in possession of that which the American Attorney General admits himself unable to supply, viz, a definition of what constitutes American citizenship.

I have thus endeavored, as far as space permits, to examine the existing condition of this question in England, upon the continent of Europe, and in America. I think the facts of the case will lead us to the conclusion that an amendment of the existing rules is highly desirable, but that of all countries there is none which is bound to address itself to this difficult discussion with more modesty and moderation than the United States. I am bound to say that the most eminent persons among them have always taken this view, and I trust they will continue to do so, in spite of intemperate speeches and electioneering intrigues.

This letter has extended to too great a length to admit of my now attempting further to discuss the principles on which a new system might be framed. There are, however, some general conclusions which may be safely drawn. First, the right of expatriation generally should be admitted; secondly, that right should be limited by certain conditions; thirdly, it belongs as much to the native state to prescribe the conditions of severance as it does to the state of adoption to prescribe the conditions of naturalization; fourthly, it would be highly desirable that the conditions on which one state confers and the other severs the tie of citizenship should be regulated by special convention, as in the case of extradition. This would be best accomplished by a general agreement; but if this be impracticable, then it should be made the subject of separate treaties.

HISTORICUS.

TEMPLE, *January* 9.

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*Mr. Seward to Mr. Adams.*

No. 2118.] DEPARTMENT OF STATE,
*Washington, January* 13, 1868.

SIR: Your dispatch of the 24th of December, No. 1503, has been received. You were quite right in saying to Lord Stanley that the negotiation in regard to the so-called Alabama claims is now considered by this government to have been closed without a prospect of its being reopened. With reference to the conversation which occurred between yourself and his lordship on the subject of a recent despatch of Mr. Ford, in which Mr. Ford gave an account of a conversation which he had with me, it would perhaps be sufficient to say that Mr. Ford submitted no report of that conversation, nor did he inform me what he proposed to write to Lord Stanley. I may add that either Mr. Ford or Lord Stanley, or both, have misapprehended the full scope of what is reported by Mr. Ford as a suggestion on my part.

Both of these gentlemen seem to have understood me as referring only to mutual pecuniary war claims of citizens and subjects of the two countries, which have lately been extensively discussed. Lord Stanley seems to have resolved that the so-called Alabama claims shall be treated so exclusively as a pecuniary commercial claim as to insist on altogether excluding the proceedings of her Majesty's government in regard to the war from consideration in the arbitration which he proposed.

On the other hand, I have been singularly unfortunate in my correspondence if I have not given it to be clearly understood that a violation of neutrality by the Queen's proclamation and kindred proceedings of the British government is regarded as a national wrong and injury to the United States; and that the lowest form of satisfaction for that national injury that the United States could accept would be found in an indemnity, without reservation or compromise, by the British government to those citizens of the United States who had suffered individual injury and damages by the vessels of war unlawfully built, equipped, manned, fitted out, or entertained and protected in the British ports and harbors in consequence of a failure of the British government to preserve its neutrality.

Besides this question there exist also other open questions. There is a divided occupation of the island of San Juan, in the Pacific, which ought to be settled soon; there is the assumption of Great Britain to hold naturalized citizens of the United States, if they were born in Great Britain, amenable for offenses under laws and before tribunals which are not and cannot be applied to native-born citizens of the United States.

A grave question arose during the recent rebellion upon the treaty arrangements between the two countries for extradition of criminals. There is a deferred question between the two countries in regard to the fisheries in the north Atlantic waters.

Any one of these questions may at any moment become a subject of exciting controversy. The naturalization question is already working in that way.

It was in view of all these existing sources of controversy that the thought occurred to me that her Majesty's government, if desirous to lay a broad foundation for friendly and satisfactory relations, might possibly think it expedient to suggest a conference, in which all the matters referred to might be considered together, and so a comprehensive settlement might be attempted without exciting the sensibilities which are understood to have caused that government to insist upon a limited arbitration in the case of the Alabama claims.

These explanations may be given informally, if you think proper, to Lord Stanley, but with the distinct understanding that the United States are not to be assumed as proposing to open a new negotiation in regard to the questions referred to, or any of them.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Adams.*

No. 2119.] DEPARTMENT OF STATE,
*Washington, January* 13, 1868.

SIR: Your dispatch of the 24th of December, No. 1502, has been received and laid before the President.

I thank you for the very interesting account you have given of the condition of panic which recent events, connected nearly or remotely with the disturbance in Ireland, have produced throughout the British realm. The ferocious and felonious character of the proceedings which attended the rescue at Manchester, and the attempt to destroy the prison at Clerkenwell by explosion, are clearly perceived in the United States, and have had some influence in checking the course of public sentiment in regard to the great political question in which large masses of Irishmen at home and abroad are arrayed against the government of Great Britain. Notwithstanding this modifying influence, however, it is plainly to be observed that the sympathies of the people of the United States are every day more profoundly moved and more generally moved in behalf of Ireland. I have continually endeavored to impress upon the British government the importance of eliminating from the so-called Fenian excitement, as far as possible, certain legitimate causes of irritation and jealousy between the people of the United States and the people of Great Britain. I have had less success than I hoped, and less, I am sure, than

would have been conducive to the interests of both countries. The pretense of the judge on the trial of John Warren, not disavowed by her Majesty's government, that although a duly naturalized citizen of the United States, he still remains a subject of the Queen of Great Britain, amenable in that country to laws which are invalid there against native-born citizens of the United States, has awakened a general feeling of resentment and deeply wounded our pride of sovereignty. The people are appealing to this government throughout the whole country, from Portland to San Francisco and from St. Paul to Pensacola. This sense of injustice works harmoniously together with a sore remembrance that the British government in the late rebellion favored the overthrow of the United States by illegitimate processes, even at the cost of perpetuation of human slavery.

Perhaps after this popular protest shall have found earnest expression in both houses of Congress, British statesmen may perceive that a restoration of cordial and friendly relations and sympathies between the two countries is impossible while the causes of irritation to which I have referred are allowed to endure.

You are not charged to communicate this dispatch; but you need affect no special reserve in regard to the facts herein considered.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Adams to Mr. Seward.*

No. 1521.] LEGATION OF THE UNITED STATES,
*London, January* 15, 1868.

SIR: I have to acknowledge the reception of dispatch from the department numbered 2116, of the 28th ultimo, on the subject of allegiance and expatriation.

Much discussion is going on in the London newspapers upon the subject. Concurring with you in the opinion that this is not a favorable time to negotiate, I yet feel very sure that the only opening to any prospect of a future peaceful settlement of the question with this country must be found in the gradual indoctrination of the British mind to the expediency of surrendering the ancient theory.

The panic occasioned by the Clerkenwell affair is gradually abating, although the enrollment of special constables is going on very extensively over a large part of the kingdom.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Daily News, January 14, 1868.]

COURT OF QUEEN'S BENCH, *January* 13.

Sittings in *Banco*—(Before the Lord Chief Justice and Justices Blackburn and Lush.)

THE QUEEN *vs.* BURKE—THE LATE CASE OF ALLEGED TREASON-FELONY.

Mr. Coleridge, Q. C., with whom was Mr. W. P. Macdonald, applied, under the 19th and 20th Vic., chap. 16, sec. 3, for a rule *nisi* to remove the trial of Burke for treason-felony from Warwick to the central criminal court.

The LORD CHIEF JUSTICE. You only ask for a rule *nisi*?

Mr. COLERIDGE. Yes. For a rule *nisi* to show cause why a *certiorari* should not issue to remove the trial to London. Your lordships judicially know nothing about the charge against Burke, but I will assume you are sufficiently aware that he has recently been committed.

Mr. JUSTICE BLACKBURN. For treason-felony. That is sufficient to make us aware what the case is.

Mr. COLERIDGE. I move on an affidavit for a rule to show cause why a *certiorari* should not issue to bring Burke back to London for trial. The case was heard at considerable length by Sir Thomas Henry at Bow street, and amongst other parts of the case an important part was that Burke was said to have been connected with the purchase of fire-arms at Birmingham, which were to have been sent to Ireland to be used against the government. No doubt that is one of a series of overt acts which make up the events for which he is to be tried. The prisoner's counsel strongly urged before Sir Thomas Henry that Burke should be committed for trial at the Old Bailey, but it was opposed by Mr. Giffard, Q. C., who appeared for the Crown, and who as strongly urged that it should take place at Warwick, the overt act with reference to the purchase of fire-arms having taken place at Birmingham. And so far as I am aware Sir Thomas Henry, chiefly on that ground, committed Burke for trial at Warwick, and he has been accordingly taken to Warwick castle. I have no wish to say one word more than is material to the question. The affidavit on which I now move states that it is extremely desirable, so far as Burke is concerned and for the interests of justice, that he should be tried in London, and on the following three short grounds: First, it is stated that Warwickshire, as we all know, has recently been rather conspicuous for religious heats and disturbances, especially as connected with Irishmen and with persons more or less supposed to be mixed up——

Mr. JUSTICE BLACKBURN. But surely the charge against Burke is in no way connected with Roman Catholicism. We are all aware that Fenianism, instead of being connected with Mr. Murphy or the Romish church, has in fact been excommunicated by the latter, if I am not mistaken.

Mr. COLERIDGE. That may or may not be. At all events, there might be persons in Warwickshire unlike your lordship, unable to discriminate between one Irishman and another, or between a Roman Catholic Irishman or a Fenian Irishman. Whether Roman Catholic or Protestant, without wishing to say anything disrespectful of any one likely to take part in the trial, (if it takes place at Warwick,) they might not possess your lordship's education and judicial mind, and it is not an unfair observation to make, that in a county which has been a great deal distinguished of late for what might be called Irish riots, to state that it is a fair ground for Burke to say that it is not for the interests of justice to be tried where the jurors might come from that part of Warwickshire where this religious feeling had existed. The second ground upon which the motion is made is this: Mr. Merriman, the prisoner's attorney, is a London solicitor of large practice, and he states that he has been for months conducting Burke's defense, and as such he is able to state that Burké is almost entirely without funds; and he further states that it will be extremely difficult for him to conduct Burke's defense at Warwick instead of London. Burke was arrested in London, all the proceedings had been taken in London, and the conspiracy, if any, was to a great extent in London, and it is suggested that it is a harsh proceeding to take him from London and try him in Warwickshire. The words of the statute are in the largest possible form.

Mr. JUSTICE BLACKBURN. The words appear to have been purposely selected, so as to give us as absolute a discretion as possible.

Mr. COLERIDGE. That is so; and it is as much for the interest of the prisoner as for the prosecutor that the right discharge of the criminal law should be vindicated.

The LORD CHIEF JUSTICE. We must see there is some substantial justice connected with his interest to bring him back. You appeal to us from the magistrate who committed him to remove Burke from the jurisdiction he had been committed to to that of the central criminal court.

Mr. COLERIDGE. I do not complain in a sense that Sir Thomas Henry is wrong, or suggest anything of the sort, because it was hardly an act of discretion. Certain overt acts were proved to have been committed, or spoken of as having taken place, in Warwickshire, and Sir Thomas Henry has done what any one else would have done under the circumstances. It is hardly an appeal against the discretion of the magistrate.

Mr. JUSTICE LUSH. You mention the name of Burke only. You do not appear for any one else?

Mr. COLERIDGE. No. Only for Burke.

Mr. JUSTICE LUSH. Are not two others committed with him?

Mr. COLERIDGE. No doubt there are, and I am informed that Mr. Fitzjames Stephen will make an application on their behalf to the court.

The LORD CHIEF JUSTICE. They might prefer to be tried at Warwick. In that case it will be a ground of objection to your application.

Mr. COLERIDGE. Yes, if it should turn out so. It may be the Crown might have no

objection to the removal of the trial. I only apply for a rule *nisi*. It is surely a matter for the consideration of the court—the position in which Burke is placed with reference to his London solicitor. The third ground upon which I move is, that Burke wishes to have a larger selection—in fact, from the whole bar—than would be open to him for his defense if he is confined to the Midland circuit. It is not for me to say that the Midland circuit has not more than enough members of the bar belonging to it from which Burke might select an advocate; but he wishes to be unfettered in his selection in a matter of so much import. Sir Thomas Henry proceeded in this matter, so far as I can make out, chiefly on the ground that some of the overt acts were said to have been committed in Warwickshire, and also that a number of the witnesses live in Birmingham. Now, it appears that 35 witnesses were examined before Sir Thomas Henry, of whom 14 only reside in Warwickshire, and the remainder in London, Liverpool, and Ireland, chiefly in the first two places. The least expensive mode of trial, so far as the prisoner is concerned, if he calls witnesses, will be to be tried in London.

The LORD CHIEF JUSTICE. But he does not say he has any witnesses to call.

Mr. JUSTICE BLACKBURN. If he has, and he summons them under the new act, he will have a chance of the expenses being allowed by the Crown.

Mr. JUSTICE LUSH. There is this to be considered. The indictment must be found in Warwickshire, because it is only after the indictment has been found that it can be removed. So that all the witnesses must go to Warwick to go before the grand jury.

Mr. JUSTICE BLACKBURN. The expense of the trial is a matter for the prosecution and not for the prisoner to consider. So far as his calling witnesses from Liverpool and Ireland, it is a matter of indifference where the trial takes place. The question is, the number of Warwickshire witnesses as contrasted with those of London.

Mr. COLERIDGE. That is so. I can only state what I find in my instructions.

Mr. JUSTICE LUSH. It seems that an order may be made for the removal of the trial before the indictment is found, but it cannot take effect until after the indictment has been found.

Mr. COLERIDGE. Yes; and enough witnesses must go down to find the bill. Mr. Merriman, in his affidavit, states that Burke is a naturalized American subject, and that he has held a commission as captain in the United States army, and my third ground for the removal of the trial is that it might raise a question as to the jury.

Mr. JUSTICE BLACKBURN. What question can it raise?

Mr. COLERIDGE. It may be that he is entitled to be tried by a jury of foreigners.

Mr. JUSTICE BLACKBURN. He has no more pretense for saying that than any other Englishman accused of any other crime. No possible point can be raised on it.

Mr. COLERIDGE. If it is impossible I have nothing more to say. Your lordship appears to have already decided the point without hearing me.

The LORD CHIEF JUSTICE. Only one member of the court has expressed an opinion on the point. I have not done so.

Mr. JUSTICE BLACKBURN. Can you say that a British-born subject can claim such a privilege?

Mr. COLERIDGE. I am not arguing the question; I am only stating the facts upon which I move.

The LORD CHIEF JUSTICE. But the state of the law upon the point ought to be considered. There can be no doubt a British-born subject cannot throw off his allegiance.

Mr. JUSTICE BLACKBURN. And that question can be as well raised at Warwick as in London.

Mr. COLERIDGE. But on any question of importance all reasonable indulgence should be given to persons accused of crimes of this sort, which are not viewed by every one as your lordship and I might be inclined to view them. But I will not say anything further on it.

The LORD CHIEF JUSTICE. We cannot make a distinction between the particular nature and character of the offense charged from any other crime. A great inconvenience will no doubt arise in all the witnesses having to go to Warwick, but it seems indispensable, in order that the indictment should be preferred before a Warwickshire grand jury, and that only after that can it be removed into the central criminal court, and bring them back to London again.

Mr. COLERIDGE. No doubt it is so, but it arises from the case having been sent there. It is not my business to pass judgment on what has been done, but I cannot help saying it is to be regretted the prisoners have been committed to Warwick. It is substantially a metropolitan offense, and only an incident in the train of circumstances, buying arms in Birmingham. Apart from what was to be done with them, and the other matters which make it a criminal charge, the purchase of fire-arms in itself is a perfectly legitimate thing.

The LORD CHIEF JUSTICE. Have you had any communication with the attorney general upon the subject?

Mr. COLERIDGE. No.

The LORD CHIEF JUSTICE. If there is no objection on the part of the Crown, then the court may possibly assent.

Mr. COLERIDGE. I am told notice of this application has been sent to the Crown. The purchase of arms at Birmingham might be done with perfect innocence; and it was merely connecting it with other circumstances that enabled the magistrate to commit to Warwick.

Mr. JUSTICE BLACKBURN. You have just spoken of this as a metropolitan offense. My impression is, it is more of an Irish offense. Very little was actually done in London.

Mr. COLERIDGE. Metropolitan offense is a wrong expression. It as an imperial offense, one against the country rather than against the county of Warwick.

Mr. JUSTICE BLACKBURN. The charge is of such a nature that it might be tried in many places.

Mr. COLERIDGE. Yes. It is an imperial offense.

The LORD CHIEF JUSTICE. And you may very well say the central criminal court is the proper place to try it. The only question for us is whether the magistrate having, in his view of the case, sent it to Warwick, should we bring it back to London? If these considerations had been presented to Sir Thomas Henry he might not have sent the case there; but its being there, shall we bring it back?

Mr. COLERIDGE. I am not pressing anything untenable. I am only asking for a rule *nisi*. It may be that when the attorney general hears of this he will assent to it.

The LORD CHIEF JUSTICE. We must consider whether the other two will have to be brought back, and therefore the application had better stand over for the present, and see what they do; and, in the mean time, perhaps you (Mr. Coleridge) will communicate with the attorney general.

Application postponed.

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## LAW AMENDMENT SOCIETY.

Sir R. Phillimore, judge of the admiralty court, presided at a meeting of this society, held last evening in the Adelphi.

Mr. John Westlake read a paper on "Naturalization and Expatriation, or a change of Nationality." After referring to President Johnson's allusion to the topic in his last message, and to its bearing upon the French army organization bill, he said it was admitted on all sides that the time had come when it was necessary to arrive at some clear and mutual understanding upon it. He then detailed those rights of protection and control which gave to nationality its importance, showing the difference between the laws and customs in various parts of the world as to the rights of foreigners, and pointing out that foreigners were generally held to be exempt from military service, but not from the payment of war taxes. These rights and duties were no doubt a burden which nations submitted to in order to facilitate intercourse between them. There was no reason to believe that the English parliament would hesitate to propose such alterations as might be necessary, but the particular arrangements to be recommended must be a question for much discussion even after the principle of free expatriation had been admitted. There was much difficulty in the proposal to merge nationality in domicile. The following rules might be considered for a change of nationality: First, a simple form of naturalization, to which any state might add any condition it thought necessary; secondly, a provision for securing that none but permanent residents were naturalized, making for that purpose a certain number of years' residence necessary, unless special reasons were assigned; thirdly, the renouncing of all claim by the original government over the person naturalized; and, fourthly, some provision for the return of expatriated persons to their original country.

In the discussion which followed, Mr. Mozely said the question could not be settled until an international code was agreed upon, but meanwhile some advance might be made. At present the British legislature seemed to go upon no intelligible principle whatever, except that of making as many persons as possible British subjects.

Mr. Vernon Harcourt said that foreigners had no rights whatever except those which the country in which they were resident chose to give them; they went there of their own will, and must be subject to the laws made there. Any government might, in its discretion, subject to enlistment anybody within its borders, those so subjected, if they disliked the law, having the option of leaving the country. The doctrine of locality of crime, in the strictest sense of the word, had no place whatever in general or international law, and any country whatever had a perfect right to say it would try every man within its borders for any crime whatsoever, whether committed there or elsewhere. England and America were the only countries where this doctrine was not held. At present if an American plotted against this country, for instance, he would be punishable for the offense in his own country, but would be perfectly safe in this country against which he had been conspiring. If an Englishman murdered a foreigner abroad he might be tried in England for doing so, but if a foreigner murdered an Englishman abroad and came to England he could not be tried. Could anything be more

absurd? If we acknowledged the continental doctrine upon this subject, we should have a sounder basis to proceed upon than the American doctrine of citizenship.

Mr. Chisholm Anstey said our present law was full of absurdity, and illustrated his position by narrating what took place on the coast of China.

Mr. Garvie, Mr. Merriman, Mr. E. Hill, and Dr. Waddilove continued the discussion, which at length turned upon the desirableness of adjourning the debate.

Sir R. Phillimore said the subject was one of extreme importance at the present time, and would have to be pressed upon the attention of not only the English and American governments, but upon the consideration of all nations. The entire question would require deliberate and ample discussion, for it was to be viewed from a great many positions, and would require a great many lights to be thrown upon it before it was satisfactorily settled. The true interpretation of international law was, that when a foreigner entered the dominion of any state he was in all respects amenable to its law. The chief difficulty arose from an inability to define when a man actually left his country. Of course, if an Englishman broke the municipal law of a foreign country, by that law he must abide; but the protection of his own government should be thrown over him so far that he should not be placed in a worse position than the citizens of the country in which he might happen to be. He (the chairman) should not like to countenance the doctrine that the moment a citizen left England the state ceased to have any care over him, or he to have any claim upon the protection of the state. All lawyers knew the difficulty there was in settling when residence became domicile, and that made him think domicile itself would not be a discreet or sufficient test of expatriation, although it might with advantage be used as an element in the matter. Any *rule* that was proposed must be one upon which there should be mutual agreement. He felt a difficulty in touching upon this question as effecting military service, because he was concerned in it during the American war. Very early the absolute necessity of agreeing to some clearly defined rule as to the protection of British subjects in America was forced upon their attention. It was soon agreed that it could not be demanded as a matter of right by a British subject who had by his acts incorporated himself in America either by domicile, by the purchase of land, by the establishment of manufactories, or still more by the exercise of voting, that he should be regarded as otherwise than an American citizen. It was justly regarded that if a person had settled in America at his own option and for his own convenience, he had no right to claim the rights of British citizenship when his residence there became inconvenient, especially as the chances were that he would return as soon as the cause of inconvenience was removed. A line was accordingly drawn, and it was agreed that the option should be given a man of leaving the country if he wished to avoid military service. With regard to the interesting question of the competency of a country to punish a crime committed in another country against itself, he was inclined to think that it was a monstrous thing that any technical rule of venue should prevent justice being done in this country on a criminal for an offense which was perpetrated here, but the execution of which was concocted in another country. But he was not prepared to say that if a criminal, being a foreigner, was accused of a crime against a third state, the same rule should apply. He did not see why any crime committed against a British subject abroad should not be tried here, instead of action being limited to a crime against the state. It was stretching the law of hospitality too far to afford a foreigner a refuge in the country against whose welfare he had been conspiring.

The debate was adjourned.

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[From the London Daily News, January 15, 1868—Editorial.]

It is unlucky for the calm consideration of the theory of indefeasible allegiance that the American objection to it is put forward at the very time when we have to defend our institutions against the plots of so-called American citizens. Our columns yesterday, for instance, contained at once the report of a discussion by the Society for the Improvement of the Law on the international bearings of the law of allegiance, and a case of Mr. Coleridge having raised the point before the Court of Queen's Bench, whether Burke was not a foreigner entitled to the benefit of a mixed jury. Now it is quite certain that, whatever we may do to meet frankly the reasonable wishes of the American government, we shall not consent to any alteration in our laws which will afford a better hope of immunity for Irish Americans who return to this country for the purpose of deluging it with blood. Our first duty is to ourselves. We must make our principles and procedure so distinct as to leave no chance of evasion to those who are really guilty of crimes against the state. Yet, while we are firm upon this point, we may fairly consider what alterations could be conceded in order to facilitate the adoption of a satisfactory general rule.

In this inquiry it must always be assumed that we treat only of what may be done in time of peace, for in time of war; and for a certain brief space preceding it, no

abandonment of the national flag for that of the enemy can ever be permitted. But during the existence of peace we may readily enough admit that there is no good reason for insisting on maintaining our bond of authority over those who *bona fide* desire to renounce it in order to make a foreign land their permanent residence. It can be of no possible advantage to us to assert the doctrine that Americans to the remotest generation are still British subjects, since they never come within the reach of British power, nor ever demand British protection or privileges. It is equally useless even to assert the indelible British character of one who was actually born in Britain, when he has unquestionably renounced his claim to the benefits of that character. Even if war broke out, we should not venture to hang him as a traitor if we captured him in arms against us in the enemy's ranks. But while all must admit that the British doctrine is in theory far too extensive, and that it might properly be cut down by admitting a *bona fide* renunciation of citizenship, coupled with actual permanent residence abroad, to divest the emigrant of his British character, these modifications only introduce new difficulties. How are we to measure *bona fides* in this matter? What is to constitute a permanent abandonment of residence? Evidently we must secure both these points in some way. To neglect the one would allow a colorable abandonment of our country, only the better to wound it. To omit the other would enable people while still remaining in this country to evade the duties and burdens of its inhabitants. But what test shall we adopt to ascertain the existence of conditions so indefinable, and so subject to variety in different cases?

The problem seems difficult, and it is not wonderful that a number of solutions should have been proposed both by the official organs of the states which have discussed it and by private lawyers. Yet, we confess, it seems to us one which a little common sense can sufficiently cope with. What we want to provide against is the case of a person nominally throwing off allegiance in order the more safely to perpetrate a crime. Now, the general law of this and of all countries declares that a foreigner committing a crime within it is punishable as a citizen. It is only in the case of treason that there is a difference, because it is only a citizen that can commit treason. But this is a mere rule of technical law. As such it is one for our own legislature to alter. If we abolish the statement in the indictment that the accused is a subject of the Queen, and owes allegiance to her, we should make the form similar to that of an indictment in every other case; and we should make the foreigner liable in the same way as he is for any other crime. Nor could he complain of being required to conform to the same laws as apply to all around him. We do not invite his presence; we only suffer it. Obviously, we can do so only on condition of his conforming to our laws. He cannot be allowed to murder a private person with impunity. Why should he be allowed to levy war against the Queen with impunity?

Nor would the abolition of this purely technical rule in the least affect the rights of foreigners when they are entitled to be treated as such. On an invasion by the troops of a state which is at war with us, we should in strictness be entitled to try every man for murder. But we do not, yielding to the international code which declares that slaughter in public war is not murder. So we should in that case admit that the levying of war was not treason. A public war would alter the character of every act, and there is no chance of difficulty in discriminating whether a war is public between states, or only private, levied by individuals. Indeed, in the latter case we should have, as we have before now pointed out, the additional right to proceed against the foreigner as a mere pirate, as a contravener of international law as well as a breaker of municipal law.

As to the period of residence necessary to consummate a change of allegiance, no greater difficulty ought to be found in agreeing upon a general rule. No state would willingly allow full nationality to be acquired, with all its attendant privileges and duties, without a reasonable period of probation. But if that period is fixed upon, it would be of reciprocal effect. On a man who had been denaturalized coming back to the land of his birth, he would have to pass through the like period of residence before he could recover the benefits of citizenship. This in many cases would render him slow to renounce it, for the occurrence in the mean time of a war between the two nations would leave him in the position of an alien enemy, without right to hold property or to sue in our courts.

The practical consequence which these remarks point at would be the conclusion of a treaty by which the subjects of all countries should be allowed, on becoming naturalized citizens of another state in time of peace, to renounce citizenship in the land of their birth. They would then, on revisiting it, be free from its civil obligations; though, on the other hand, they would be liable to the civil disabilities of foreigners. But if, when within its borders, they committed a breach of its laws, they would be liable to trial by the ordinary municipal law in the same way as if they were still subjects of the state. Whatever privileges the municipal laws might accord to all foreigners would be theirs. But no other state would be entitled to demand that any exceptional privileges at all should be accorded to foreigners, since that is solely a matter for the internal regulation of each state by itself. In its application to existing circumstances

the effect of the rule would be, that Burke, if a naturalized American, must have declared that he had ceased to be a subject of the United Kingdom. But if he is proved to have levied war against the sovereign of the United Kingdom, he would be liable to be hanged just as if he were still a subject. Besides this, he would be liable to be hanged if he were proved to be a foreigner who was on a fillibustering expedition. He would be entitled to a mixed jury so long as our laws allow that privilege to foreigners. But, on the other hand, he could hardly expect the sympathy or intercession in his behalf of the American government, since he would not only have committed treason and piracy against us, but would have broken the American laws to which he owes allegiance, in levying private war against a friendly state of which he had avowedly and expressly ceased to be a subject.

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*Mr. Seward to Mr. Adams.*

No. 2123.] DEPARTMENT OF STATE,
*Washington, January* 20, 1868.

SIR: Referring to my No. 2097 in regard to the question pending between the governments of Great Britain and Nicaragua, concerning the Musquitó territory, I now inclose for your information a copy of a dispatch* from the United States minister to Nicaragua, containing the correspondence between Mr. Dickinson and the minister for foreign affairs regarding the action which this government has taken in the matter.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1522.] LEGATION OF THE UNITED STATES,
*London, January* 21, 1868.

SIR: On Saturday evening, the 18th instant, I received a telegram from Mr. Eastman, the consul at Queenstown, announcing the fact that Mr. G. F. Train, a passenger in the steamer Scotia from New York, had been arrested on the tug-boat whilst going up the harbor, and was still detained, on suspicion of intentions hostile to the government.

I wrote at once to Mr. Eastman, giving him instructions to learn the facts of the case, and if it should turn out as I fully expected, that there were no just grounds for his detention, to apply for his release. If, on the other hand, there was a continued detention for reasons assigned, I directed him to report them at once to me.

I called at the foreign office yesterday, and spoke incidentally of this case, expressing my own confidence that whatever Mr. Train might have said in America, there was no ground for believing him disposed to do any act here that would compromise him with the authorities; hence I hoped that no further measures would be taken to detain him. My own impression was that he had had no intention to remain in Ireland at all.

His lordship said that he knew nothing of the case from any source but the public journals. Mr. Train was well known here already. His first impressions rather coincided with my notions of his doings. But he should be obliged to inform himself of the grounds upon which the detention had been made before being in a position to give any official opinion on the matter.

* For inclosure dispatch No. 144, December 23, 1867, from the United States minister to Nicaragua.

The public journals generally contain extracts from Mr. Train's speech in Boston, taken from the Pilot, and are disposed to make merry with it. But I cannot help thinking the act of the arrest extremely injudicious, and hope that the government will see it in that light whilst there is time to correct the error.

A few hours after writing the above I received a telegram from Mr. Eastman at Queenstown, announcing that Mr. Train had been released. Still later in the evening I got a private note from Lord Stanley to the effect that he had communicated with Lord Mayo, who had informed him that the arrest had been made by the magistrates at Queenstown without communication with Dublin. Directions for the release of Mr. Train had been given from the latter place. I have now reason to believe that the whole affair originated with a fellow passenger in the steamer by the name of Gee, who informed the magistrates of conversations of Mr. Train on shipboard, which he did not himself hear, and failed on being called upon to substantiate.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1525.] LEGATION OF THE UNITED STATES,
*London, January* 25, 1868.

SIR: The agitation of the public mind consequent upon the late attempts at violence having pretty well subsided, I thought the time had arrived when I could communicate to Lord Stanley, with some prospect of a hearing, the substance of your dispatch, No. 2108, of the 14th of December. I did so upon my visit to the foreign office on Monday last. I recapitulated to his lordship the grounds upon which you placed the representation, as being the person charged with the duty of watching the friendly state of the relations between the two countries, and then stated the unfavorable effect produced in America by the late convictions and penalties inflicted upon those who had become American citizens, and were, therefore, an object of interest there. I likewise mentioned your opinion that it would have been a good thing to have released Messrs. Nagle, Warren, and Costello, as viewed in the light in which you are placed.

His lordship listened to all I had to say very quietly, and when I had closed he only remarked that it had never been the disposition of the government to exercise any needless severity against the unprovoked attacks which had been made on the country. He felt very sure that not a trace of vindictiveness or of ill temper could be found in any of their acts. They had been obliged to use their best judgment in difficult circumstances much as we ourselves had done, and if some of the consequences were not favorable they could only regret that it should be so. He did not know that he was called to give any formal answer to your communication. I said that I could not say I expected one, as I understood your intention had been confined to a friendly expression of opinion.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Adams to Mr. Seward.*

No. 1530.] LEGATION OF THE UNITED STATES,
*London, February 5, 1868.*

SIR: I have to acknowledge the reception of dispatches from the department, numbered 2119, and from 2121 to 2124, inclusive; also three copies of the United States Statutes at Large, passed at the first session of the 40th Congress.

With respect to the subject matter of No. 2123, of the 20th of January, I have the honor to report that in a conversation with Lord Stanley, held some time since, I introduced the question which had been committed to me in your dispatch No. 2097, of the 23d of November, and remarked to his lordship that the government, feeling a friendly interest in the government of Nicaragua, had wished me to offer to render any services that might be in my power to smooth away difficulties that might have arisen here. His lordship replied that the government had no wish to do anything to embarrass the government of Nicaragua. Their object had been to secure justice to all parties, as well the people of the Mosquito territory as the Nicaraguans; and after consultations with the minister who had been sent here, he believed that the result arrived at had been regarded as perfectly satisfactory.

I said, in reply, that I had presumed this to be the case, as I had heard nothing more of the minister after the first interchange of civilities between us. It had so happened that, though repeated calls had been reciprocated, we had never been so fortunate as to meet each other face to face. But it was well understood between us that my services could be commanded in case of need. Hence the omission to apply for them had led me to the conclusion that all the objects in view had been attained without the need of them.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1531.] LEGATION OF THE UNITED STATES,
*London, February 5, 1868.*

SIR: I received, on the 30th ultimo, a letter from Mr. Eastman announcing to me the fact that a person by the name of Michael McKeen had been arrested at Queenstown "on suspicion of evil purposes," and that he had claimed his protection as a naturalized citizen of the United States. Mr. Eastman reported that he had at once made the usual application to the authorities at Dublin for his release. It would appear from the consul's statement that Mr. McKeen had no papers whatever in his possession to prove his naturalization, and that Mr. Eastman proceeded solely on his belief of the truth of the account which he personally gave to him. In his application Mr. Eastman, therefore, could describe him only as "claiming to be a citizen," &c. The result was, in due course, an order from Dublin for the discharge of Mr. McKeen. He was accordingly released on the 30th ultimo.

This is one of many cases in which there seems a necessity that parties liable to be stopped at Queenstown should be provided with some sort of

evidence of their status; especially such persons as are natives of Ireland. It might be expedient that, in order at least to avoid the inconvenient delay required to obtain evidence, their own comfort would be consulted by some warning given at home of the propriety of being provided before starting from America with such reasonable proofs of their status as citizens as might be obtained by them with little trouble. Such a precaution would materially increase the confidence in prompt intervention on the part of the officers who have the matters specially in charge here.

Meanwhile, I fully bear in mind the fact that this has been heretofore made the subject of representation to the government here. As it is impossible to be sure of the time in which action may be come to here in the matter, and some personal inconvenience might be avoided in the interval I have taken the liberty to make the present suggestion.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1535.] LEGATION OF THE UNITED STATES,
*London, February* 11, 1868.

SIR: I have the honor to transmit a copy of a letter addressed to me by R. OS. Burke, the individual now under confinement and about to take his trial on a charge of treason-felony. I am led to do this not so much on account of its intrinsic importance as from a wish to place on record, among all the cases in which it has been my duty to labor in behalf of persons similarly situated, this single instance of grateful acknowledgment.

In this connection I may as well call your attention to the delay to reply to my dispatch No. 1495, of the 14th December last, in relation to the case of Colonel Nagle. His solicitor, Mr. Scallan, has become very anxious, and has applied to me to know what is to be done in the absence of directions. I have caused him to be informed that I consider my existing authority to extend only to the employment of counsel in Nagle's defense in the customary way. So far as that goes I am willing to exercise it. But so great is the expense already incurred even in that way, that I could only justify acceeding to the extra measures which he desires under special instructions from the department authorizing the outlay.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Burke to Mr. Adams.*

COUNTY JAIL, WARWICK,
*Sunday, February* 9, 1868.

SIR: I regret to learn through my solicitor, Mr. Merriman, that you have resigned your representative office at the English court, and are about to return to the United States.

I desire, before your departure from London, to express to you my thanks for the

prompt and satisfactory consideration you have bestowed upon my case; and further, to tender to yourself, Mr. Moran, secretary of legation, and Mr. Morse, consul at London, my gratitude for the unvarying kindness and courtesy with which myself and solicitors have been received during my connection with the legation.

I have the honor to be, sir, your obedient servant,

RICARD OS. BURKE.

Hon. CHARLES FRANCIS ADAMS,
*United States Minister, &c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1538.] LEGATION OF THE UNITED STATES,
*London, February* 14, 1868.

SIR: Parliament reassembled yesterday according to the adjournment. Many notices of motions were made, the only one relating to America being that of Mr. G. Shaw Lefevre, relative to the negotiation on the Alabama claims.

The health of the Earl of Derby has become so precarious that an impression has got abroad of the probability of his retirement at an early day. A leader in the Times of this week seemed to point in that direction. But so great are the difficulties in the way of the selection of a successor, that this step will be resorted to only under a sense of absolute necessity. Much as the absence of the premier in the House of Lords is felt from the want of any person of his party adequately to fill his place, the attempt to go on in spite of this disadvantage will be persevered in as long as possible, rather than to hazard a reconstruction in this stage of a transient parliament, with a dissolution full in view at the close of the present session.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2131.] DEPARTMENT OF STATE,
*Washington, February* 14, 1868.

SIR: I inclose for your information an extract of a dispatch from Mr. Bancroft, our minister at Berlin, dated 23d January, and a copy of my reply thereto of the 13th instant, No. 41, upon the subject of the naturalization laws existing between the United States and the governments of Great Britain and Prussia, respectively.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Bancroft to Mr. Seward.*

[Extract.]

No. 33.] AMERICAN LEGATION,
*Berlin, January* 23, 1868.

SIR: Your letter No. 33, of January 6th, has been received. Count Bismarck informs me that the British government has inquired of him as to the answer the Prussian gov-

ernment would make to the American government on the subject of naturalization. In reply he informs them of the intention of this government to come to an understanding with that of America, according to its request. The remarks of Count Bismarck implied that the British government is inclined to follow the example of the Prussian, and that the settlement of the question here will be virtually a settlement for Great Britain.

In the prosecution of this business to a settlement there is need of great patience, as the several departments interested in the measure have to be consulted and to propose their difficulties and desired modifications. Some time must therefore pass away before the negotiations can be closed.

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I remain, sir, yours sincerely,

GEO. BANCROFT.

Hon. WILLIAM H. SEWARD,
*Secretary of State.*

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*Mr. Seward to Mr. Bancroft.*

No. 41.] DEPARTMENT OF STATE,
*Washington, February* 13, 1868.

SIR: Your dispatch of the 23d of January, No. 33, has been received. I thank you for your attention manifested in informing me what has passed between the governments of Great Britian and Prussia concerning the question on the naturalization laws existing between the United States and those two governments respectively. I have informally suggested to the British minister here that a proceeding in a form of mutual or common legislation in the two countries would be more simple and probably easier than formal negotiations, inasmuch as there are so many other questions which urgently require settlement between the United States and Great Britain besides that of the conflicting naturalization laws. Perhaps it would be well for you to speak in the same sense to the British ambassador at Berlin.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, February* 17, 1868.

Is counsel, special or otherwise, employed for Nagle, and how? Telegraph.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, February* 18, 1868.

Usual counsel engaged. No reply yet to dispatch 14th December.

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, February* 18, 1868.

Let special bar be employed for Nagle.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1539.] LEGATION OF THE UNITED STATES,
*London, February* 18, 1868.

SIR: On Saturday last, the 15th instant, I had a favorable opportunity of meeting Lord Stanley and of communicating to him the substance of your dispatch No. 2118, of the 13th of January. The chief portions of it I gave to him in your own words, especially the closing paragraph, precluding any inference that the suggestion that preceded was to be considered a proposal to reopen a negotiation.

His lordship said that his desire, as I must know, had always been so strong to arrive at some terms of agreement with us, that if he could see a way to it he should not stand upon ceremony in the order of initiating it. With respect to one of the subjects referred to in the dispatch, that of allegiance, he believed the feeling was universal in England that some change of the law was necessary to meet the change of circumstances. If there were inconvenience to us likely to spring from it on this side, it was not less true that equal inconvenience might result in certain cases to them on the other. Some had actually been experienced during the late war. In the instructions that had been given to Mr. Thornton, the new minister, he had included a proposal, in a friendly spirit, to engage in any consultation that might have for its object the arrangement of all existing difficulties on this head.

I said I was very glad to learn this; for just at the present moment there was a more pressing need of removing uneasiness on this score than on any other. We then went into some general conversation upon the difficulties in the way of a definite settlement of this right of expatriation among the great nations of the world, in the course of which his lordship started the idea of some commission of eminent legal representatives of the four powers most interested in the question to devise and recommend some common system for all. I expressed my own willingness to favor this notion, and the more that our difficulties were even more serious with Germany on this subject than with England. Passing from this, however, his lordship expressed his doubts whether it would be found more easy to come to an understanding by accumulating all the different topics recited in your dispatch in one heap than by treating each separately. The term "conference," too, was so general that he could not yet quite affix a practical measure to it. He should be very glad to learn more fully what idea it was intended to convey. I said that I would, if he pleased, communicate this wish to you, it being understood that thereby no implication could be raised adverse to the observance of the precautionary final paragraph in your dispatch.

His lordship assented to this reserve. So it was understood between

us that, saving all notion of the presentation of any overture thereby, I was to ask if you would be willing to convey to his mind more fully an idea of what was intended under the term "conference."

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1540.] LEGATION OF THE UNITED STATES,
*London, February* 19, 1868.

SIR: I have to acknowledge the reception of dispatch from the department numbered 2128; also, of two telegrams by the cable, dated the 17th and 18th instant.

The directions given to employ a special bar in defense of Colonel Nagle have been at once transmitted to Mr. West, at Dublin.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1543.] LEGATION OF THE UNITED STATES,
*London, February* 26, 1868.

SIR: I have to acknowledge the reception of dispatches from the department numbered from 2129 to 2132, inclusive.

The not unexpected event of the resignation by the Earl of Derby of his place as first minister of the Crown, was announced in both houses of Parliament yesterday. It was also declared that Mr. D'Israeli had been charged by the Queen with the duty of forming a new ministry, and Parliament, in order to give him the time requisite to complete the arrangements, adjourned until Friday.

It is thought that this result has been somewhat accelerated by the proposal of both houses to enter at once upon the consideration of the question of Ireland. On that subject the government was not understood to have been fully prepared to initiate a policy, and much less to defend it, with its chief in the upper house utterly disabled from appearing. So wide is the difference of opinion regarding the principal question involved, the treatment of the established church, that it will task all the powers of the new chief to bring his friends to harmonize in any practical measure of change. Yet he has gained so much reputation for his success in grappling with an equally difficult problem in the extension of the franchise, that it is not deemed impossible that he may succeed also in this. The opposition, although not yet reorganized, is thought to be on the way to consolidation. It is not their policy to press too hard, however, so long as the remaining measures necessary to define the franchise and representation in Scotland and Ireland are not completed. There is not much more of union of sentiment on the church question

on one side than on the other; so that much time may be spent in the discussion before any issue shall be arrived at, and even then it may be reached in a manner which will not unsettle the ministry. The change going on in the ancient forms of this government in this respect may thus become more and more apparent. Instead of representing a party, the cabinet more nearly approximates the popular sense acting on the representatives of both sides indiscriminately. The development of this new feature in the British constitution will soon be a matter for interesting speculation.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1546.] LEGATION OF THE UNITED STATES,
*London, March* 3, 1868.

SIR: You will receive in due course, from the consul at Dublin, Mr. West, the reports of the proceedings at Sligo in the trial of Colonel Nagle. It appears that in consequence of a failure to obtain a sufficient number of aliens to constitute half of the jury, it has been decided to change the venue, and to postpone the case to a future day. All the necessary measures for the defense of Colonel Nagle, specified in your instructions, were adopted by Mr. West, and he was authorized by me to draw upon the department for the amount required to defray the expense. At the same time I have cautioned him to exercise his discretion in regard to the extent of his engagements, for the sake of security against exorbitant demands upon the national treasury.

The trials in the five or six other cases of prisoners taken from the Jacmel will now probably proceed. Reports of these will be forwarded to the department in proper course. I have not thought it worth the expense to employ any one to watch the proceedings, as the reports of Mr. Adair, at Dublin, varied little from those obtained through the public press.

The government have liberated several of the prisoners and offered terms to more, but they were not willing to abide by the conditions prescribed. I have never considered it proper to take official cognizance of these proceedings, as they depend for their validity upon the voluntary waiver of those claims by the parties to which alone it is my duty to respond.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

P. S.—Since the foregoing was written, the newspapers announce the postponement of the remaining trials.

*Mr. Seward to Mr. Adams.*

No. 2139.] DEPARTMENT OF STATE,
*Washington, March* 6, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 5th of February, No. 1531, which relates to the case of Michael McKeen, arrested at Queenstown on suspicion, and subsequently released. Your suggestions concerning the importance of United States citizens who may visit Great Britain being provided with evidences of citizenship, are approved. In this connection, I inclose a copy of an executive order of the 18th ultimo on that subject.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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DEPARTMENT OF STATE,
*Washington, February* 18, 1868.

It is recommended to all citizens of the United States, native or naturalized, who have occasion to visit Great Britain or Ireland, to procure passports from this department while the *habeas corpus* remains suspended in the latter country. Citizens of the United States, unjustly arrested, are liable to be detained without prompt examination until they can procure and produce legal evidence of their citizenship.

WILLIAM H. SEWARD.

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*Mr. Seward to Mr. Adams.*

No. 2141.] DEPARTMENT OF STATE,
*Washington, March* 7, 1868.

SIR: I have just now received your dispatch of the 18th of February No. 1539. I entirely approve of your proceeding in submitting the substance of my No. 2118 to Lord Stanley. I have also taken the President's directions concerning the suggestions which his lordship has made to you with a view to the adjustment of existing differences between the United States and Great Britain.

You were wise, as you always are, in saying to his lordship that it is the naturalization question which causes an uneasiness that more urgently needs removal than any other. While that uneasiness shall remain unrelieved, it would seem almost hopeless to attempt an adjustment of the other differences. This one will admit of no delay, compatibly with the preservation of harmony between our two countries. For this reason I cannot approve of his lordship's suggestion for a commission of eminent legal representatives of the four powers most interested in the question of naturalization.

There now exists, it seems to me, a possibility of our being able to adjust this question promptly and satisfactorily. It could have been only a very few days after your conversation was held with Lord Stanley that Mr. Bancroft made a treaty with the North German government for adjusting the question of naturalization between the United States and that great and friendly power. That treaty has not, as yet, been received here. It is expected, however, to come by the very next mail. Its stipulations are believed to be tolerably well understood here. It is supposed also that they would be unobjectionable in principle to the

British government. A single supplemental stipulation would render a treaty with Great Britain similar to that we are making with North Germany equally acceptable and satisfactory to the United States. That supplemental article would be that the naturalized citizen of one country should have and enjoy in the other all the rights, immunities, and privileges which, by the law of nations, treaties, or municipal law, are allowed in that latter country to the native citizen of the country to which the naturalized citizen belongs.

I am in communication now with Mr. Thornton upon the subject. So soon as I shall have received the Berlin treaty, I shall furnish him with a *projet* of a treaty, which, if he approves, I shall be ready to execute immediately. I shall suggest to him to-day that he ask by telegraph for the necessary special power and directions.

If we can make such a treaty, only two things more will be necessary to relieve the now existing uneasiness which has resulted from the naturalization question. These are, first, that pardons be granted to Lynch and McMahon, two prisoners in Canada, believed by this government to be morally guiltless, and whose further punishment wears an aspect of unnecessary severity towards them and unkindness towards the United States; secondly, that her Majesty's government shall in some way provide for a discontinuance or termination of the cases of Colonels Warren and Nagle, which cases have been needlessly and blindly complicated by judicial persistence in the dogma of the indefeasibility of native British allegiance, which, it is expected, will be relinquished in the proposed treaty.

With the good hope of adjusting the naturalization question promptly and in the manner indicated, I reserve, for the present, the consideration of Lord Stanley's suggestions relating to a mode of proceeding to arrange the Alabama and other questions, because the views I shall have occasion to submit on those subjects will be greatly influenced by the result of the anticipated proceedings in regard to naturalization.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1549.] LEGATION OF THE UNITED STATES.
*London, March* 7, 1868.

SIR: I have the honor to transmit a copy of the Times of this morning, containing a report of the debate in the House of Commons last night on the motion of Mr. Shaw Lefevre relative to the questions between the two governments springing from the late struggle. I add a copy of the Standard, because I learn from Mr. Forster, one of the parties to the discussion, that at least his speech is reported in essential particulars more correctly there.

Although not present myself on this occasion, I learn from several quarters that the temper manifested in it was throughout fair, and even friendly. I am inclined to believe that on the single question of the claims for damage done by the Alabama, and perhaps one or two other vessels, Parliament is almost prepared to pay whatever might be adjudged by a commission raised for the purpose, without much demur.

You will doubtless take note of the allusion made in Lord Stanley's

remarks, towards the close, to that part of your latest communication to me on the subject which I made known to him. My opinion is that the failure of the negotiation is matter of general regret. Whilst there is a strong disposition to protect the action of Lord Stanley in his construction of the terms of your dispatch of the 12th January, 1867, there is nevertheless a feeling that if he had put a construction like that of Mr. Forster's, they would have been quite as ready to justify it.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Standard, March 7, 1868.]

## THE ALABAMA CLAIMS.

HOUSE OF COMMONS, *March* 6.

On the order of the day for going into committee of supply, Mr. S. L. Lefevre rose to call attention to the failure of the negotiations with the United States government for arbitration of the Alabama claims, and moved an address for papers. The honorable gentleman said, that in bringing that subject before the house he hoped he would not be embarrassing the noble lord the secretary for foreign affairs in his diplomatic correspondence with the United States government, or adding to the complications already existing between the two countries. But it seemed to him, and others with whom he had communicated upon the subject, that some good might arise if the question were discussed with candor and under a due sense of the important consequences which it involved. He would shortly state the facts of the case. The earliest cause of complaint on the part of the United States government arose out of her Majesty's proclamation of neutrality, which was issued on the 13th of May, 1861, upon the advice of the law officers of the Crown. The fall of Fort Sumter took place on the 14th of April in that year, and that was the commencement of the civil war in America; but long before that seven of the Confederate States had made great preparations for war, and had virtually separated themselves from the northern States. The fall of Fort Sumter was followed, two days afterwards, by the proclamation of President Lincoln calling out 75,000 men, and that was followed in its turn by the confederate government calling out 30,000 men and issuing letters of marque. On the next day President Lincoln proclaimed the blockade of the southern ports, and announced his intention of treating the crews of the privateers as pirates. These facts reached this country on the 3d of May, and were published in the English newspapers on the day following. On the 6th of May her Majesty's government announced in that house that they would recognize the Confederate States as belligerents, and on the 13th of May, as he had already stated, the proclamation of neutrality was issued. The actual blockade was effected by the north along the southern coast by the end of April, and from that day forward there were in the prize courts numerous cases relating to the capture of English vessels. But it was not until some time afterwards that the confederate flag made its appearance. It had frequently been said that the first confederate cruisers had sailed from this country. But that was not the fact. He found there were previously four cases of confederate men-of-war which sailed from southern ports. The first of these was a vessel called the Sumter, which escaped the blockade at New Orleans, and after capturing two prizes off Cuba, put into Trinidad on the 29th of July, 1861. That was the first instance in which the confederate flag had been recognized by this country. That vessel was followed by the Nashville, and next by the Oreto, (afterwards called the Florida,) which escaped from Liverpool and went to Nassau. It seemed that a complaint had been made to the collector of customs at Liverpool with respect to that vessel; but that gentleman appears to have been always easily deceived upon these subjects. [Hear, hear.] He reported to the government that he had every reason to believe that the vessel was intended for the Italian government. She went from Nassau to Mobile, where she ran the blockade, and then commenced her career of destruction. Shortly afterwards the news of the escape of the Florida came to the knowledge of the American government, and they then complained that another vessel of the same description, called the "290," was being built by the Messrs. Laird. Her Majesty's government again referred to the collector of customs at Liverpool, and he reported that the latter ship was obviously a war vessel, and that her builders did not disguise that she was intended for a foreign government, but they declined to state what foreign government that was. On the 22d of July, six affidavits were laid by the American minister before the foreign office, for

the purpose of showing the true character of that vessel. Those affidavits were referred to the honorable and learned member for Richmond, the then solicitor general, (Sir R. Palmer,) on the 28th, the six days' delay in dealing with the case having been occasioned by the unfortunate illness of the Queen's advocate, from which he never recovered. On the 29th the honorable and learned member for Richmond gave an opinion to the effect that the vessel in question, which was afterwards known as the Alabama, ought to be detained. A telegram was then sent to Liverpool for the purpose of giving effect to that opinion, but before the order could be obeyed the vessel escaped, under the pretense of taking a trial trip. She then sailed toward the Azores, where she was met by two other ships, from which she received her crew and armaments. She afterwards put into Jamaica, where she was recognized as a regular southern cruiser, and where she was hospitably received. Then began her devastations. She was intended for purposes of mere destruction, and she well performed her task. The seas were lighted up with her fires. She made no prizes, but burnt all the vessels she captured. In the course of one of the discussions which took place upon that subject in the house, an honorable member stated that he would rather have built that vessel than have made the speeches they had heard from the honorable member for Birmingham. [Hear, hear.] Now, observations of that kind had sunk deep into the hearts of the people of America, and had greatly complicated our relations with that country. He believed there were but few persons at present who would not say that those who had been connected with that vessel were among the greatest malefactors of the day. [Hear, hear.] He need hardly remind the house of the case of the two iron-clad rams which were subsequently being built in the yard of the Messrs. Laird. The government, going somewhat, perhaps, beyond their authority, had stopped the construction of these rams, and had afterwards purchased them on their own account. An attack was made upon the government by the present Lord Cairns for the course they had thus taken, but his motion was defeated by the narrow majority of five. There was also another vessel which was being built for the Confederate States at Glasgow, which the government detained until the close of the war. She was then returned to the owners, who sold her to the Chilian government, and in their service she became known as the Tornado, and was the cause of considerable difficulty between that country and Spain. There was also a vessel called the Alexandra, which were detained at Nassau, and there were two others, called the Georgia and Shenandoah. The two latter ships, one of which was fitted out in London and the other in Liverpool, pursued exactly the same course as the Alabama. These three cruisers, without having ever entered a southern port, had captured about 200 vessels. The loss they had caused to the United States was not, however, to be measured by the mere destruction of so many ships. The commerce carried on under the American flag had greatly declined in consequence of the increased rate of insurance which American ship-owners had to incur, and it appeared that while this carrying trade had fallen to one-third of what it had been before the war, the trade carried on under the English flag had more than doubled in amount. That was a reason why this country should deal generously with that question. It was right to mention that both the Georgia and Shenandoah had escaped from our shores without any information with respect to their destination having been communicated to her Majesty's government; and it also appeared that the American minister at Lisbon complained to his own government that if he had received earlier intelligence as to the true character of the Shenandoah he might have been able to arrest her progress. Those facts seemed to show that the American authorities had been somewhat negligent in the matter, and it was very possible that if they had made better use of their own cruisers they might have prevented some of the destruction which had taken place. But the whole of those transactions had produced the strongest irritation in America, and no one who had not traveled in that country could be aware of the extent of that feeling. The depredations committed by these vessels had caused constant irritation and aggravation, and had been used detrimentally by the Fenians and others who were anxious to create a feeling against this country and United States. Every right thinking person was therefore anxious, in the interest of peace, to bring, if possible, this unfortunate dispute to a conclusion. [Cheers.] He believed that the large preponderance of the higher opinion of America was favorably disposed toward this country; but, notwithstanding this, it would be well for both parties to have all sources of contention swept away. [Hear, hear.] On both sides there was but one desire, viz, to have the difficulty brought to a satisfactory solution. Having said so much upon one branch of this subject, he wished now to point out how diplomacy had dealt with the question. And, first of all, he would advert to the matter of the recognition of the belligerency. Mr. Adams arrived in this country on the very day the proclamation of neutrality was issued. His first task was to communicate with Earl Russell, and protest against the course adopted by the British government. He expressed great regret at the decision of her Majesty's ministry, and said that there could be no doubt that the effect of the proclamation would be disastrous. Earl Russell replied to this that in recognizing the south as belligerents no opinion whatever was expressed upon the merits of the American war. Mr. Adams answered that the proclamation of neutrality was a little more rapid than

was actually called for by the occasion. With the exception of these two conversations which passed between Earl Russell and Mr. Adams, no protest or claim was made on behalf of the American government till within a very recent period. Such, however, had not been the case with respect to the confederate cruisers. No sooner was it ascertained that the Alabama was burning ships upon the ocean than Mr. Adams made a claim on our government for loss and damage done to the property of American citizens by vessels which had been allowed to escape from English ports. That was in November, 1862. In October, 1863, Mr. Adams received further information respecting other ships which had been burned by the Alabama; and in the course of the correspondence which followed he spoke for the first time of arbitration. On that subject he said the United States government were sincerely desirous of perserving peace and amity between the two nations, and that in case it was found impossible to arrive at any satisfactory conclusion they would be perfectly willing to submit to any fair or convenient arbitration. Now, so far as he had been able to discover, Earl Russell upon that occasion took no notice of the question of arbitration. He simply denied the justness of the claims made by Mr. Adams. From that time the matter lay dormant for about two years, and in the mean time the other vessels to which he had alluded were burning and destroying. The complaints were, however, again renewed in the case of the Shenandoah, and then, for the first time, the question of the recognition of the belligerents of the south was brought forward, and we were charged with a breach of neutrality in permitting the cruisers to escape from our ports. On that occasion Mr. Adams said that the whole evil had practically its origin in this country recognizing the south as a belligerent power before they had a single vessel floating upon the ocean. In the course of the correspondence that followed, Earl Russell adverted to the claims between the Portuguese and the United States in 1824, which were similar to those between England and America, and pointed out that the American government had adopted the same line of defense upon that occasion as the English government adopted now. Alluding to the matter of arbitration, his lordship detailed his reasons for declining it, and said there should only be two questions for arbitration: first, whether the British government acted with good faith and honesty in the maintenance of neutrality; and secondly, whether the law officers of the Crown properly understood the foreign enlistment act when they declined to counsel the English government to detain the Alabama. Neither of these questions, his lordship held, could be referred to the arbitration of a foreign power, with due regard to the honor and character of the British nation, and he therefore declined to refer them. With this dispatch the correspondence closed for some time, although the refusal to submit to arbitration was commented upon in a dignified and prudent manner in the message of President Johnson in 1865. Papers relative to the dispute were laid before the country in the autumn of 1865. When Parliament met in 1866, Lord Derby stated that he fully approved of Earl Russell's correspondence and the arguments with which he had supported the cause of England, and in the lower house no objection was urged to the course adopted by the late government, except by one or two members, who expressed regret that the offer for arbitration had not been acceded to. He was one who had been in favor of that policy being pursued, and he framed a motion with the view of bringing it before the house, but upon consulting with other members, and finding that the resolution would not meet with general support, he abandoned his intention. The change of government which took place brought with it a sense of responsibility which was not previously apparent. The first symptom of the change was to be found in the correspondence between Mr. Seward and Mr. Adams, in which the latter gave an account of an interview which he had with the noble lord the head of the foreign office. Mr. Adams's account of what Lord Stanley said was, "His lordship, in welcoming me, remarked that he presumed his sentiments towards the United States were well known to me. He had always favored the cultivation of friendly relations with us, and regretted that these should have been at all endangered during the late struggle by inconsiderate speeches in Parliament." [Hear, hear.] He (Mr. Lefevre) could only regret that the noble lord had not used his great influence for the purpose of preventing some of these ill-considered speeches, or, at all events, in mitigating their effect. Some time after the noble lord came into office the negotiations respecting the Alabama and her sister vessels were again renewed, and upon this occasion, for the first time, the question of the recognition of the belligerency, which had formerly been treated as a subordinate matter or not mentioned at all, became the principal cause of complaint. The claim was put forward in this manner: "While yet the civil war was undeveloped, and the insurgents were without any organized military force or a treasury, and long before they pretended to have a flag, or to put either an armed ship or a merchant vessel upon the sea, her Majesty's government, acting precipitately, proclaimed the insurgents a belligerent power, and conceded to them the advantages and privileges of that character, and thus raised them, in regard to the prosecution of an unlawful armed insurrection, to an equality with the United States. This government has not denied that it was within the sovereign authority of Great Britain to assume this attitude, but on the other hand it insisted in the beginning, and has continually insisted, that the assumption of that attitude would be an injurious proceeding, for which Great Britain

would immediately come under a full responsibility to justify it, or to render redress and indemnity." The noble lord, the foreign secretary, in writing to Sir F. Bruce on the 30th of November, 1866, said, "On the other hand, they are fully alive to the inconvenience which arises from the existence of unsettled claims of this character between two powerful and friendly governments. They would be glad to settle this question if they could do so consistently with justice and national self-respect; and with this view they will not be disinclined to adopt the principle of arbitration, provided that a fitting arbitrator can be found, and if an agreement can be come to as to the points to which an arbitration shall apply." The United States government, however, wished to refer the whole controversy as it stood in the correspondence which had taken place between the two countries, with such further evidence as could be procured, without imposing restrictions on the umpire. The noble lord, in reply, said, "With regard to to the ground of complaint, on which most stress is laid in Mr. Seward's dispatch, viz., the alleged premature recognition of the Confederate States as a belligerent power, it is clear that no reference to arbitration is possible. The act complained of, while it bears very remotely on the claims in question, is one of which every state must be held to be the sole judge of its duty. There is, so far as I am aware, no precedent for any government consenting to submit to the judgment of a foreign power or to an international commission the question whether its policy has or has not been suitable to the circumstances in which it was placed." The answer which Mr. Seward made to this dispatch appeared to have been a letter written by him to Mr. Adams, which letter was read by the latter to Lord Stanley, but was not left with his lordship. That letter was consequently not included in the published correspondence. It had, however, been given at length in the American papers, the substance of it being that the President hoped the explanations which had been given would remove all difficulties, and allow both parties to bring the dispute to a satisfactory conclusion. Lord Stanley, on the 16th December, replied that her Majesty's government could not depart from their decision of refusing to refer the question of the recognition of the belligerency to arbitration, and Mr. Seward declined to accept arbitration upon such terms. Any one would admit from the last of these letters that a very considerable change was observable in the course of this correspondence in the position of Mr. Seward. At the commencement of this correspondence he put the whole claim on the recognition of belligerency, and at the close he, in fact, assented to the terms proposed by the noble lord. There were three stages in the correspondence—the first in which the whole question was put on recognition of belligerency, all other questions being considered as incidental and unimportant; the second, in which Mr. Seward offered to refer the whole correspondence as it then stood to an arbitrator; and the third, that in which he accepted the proposition put by the noble lord—namely, whether we were morally responsible for the damages occasioned by the Alabama, and stated that that was sufficiently comprehensive for his purpose. The difference in these last stages was very great; and he (Mr. Lefevre) could not but regret that the noble lord had not left the matter there, but had thought it his duty to make special exception of the question of the recognition which induced Mr. Seward to withdraw from further negotiation in the matter. It was one thing to refer the question itself to an arbitrator, and another to make a special exception from the arbitration of another subject, and which might be introduced as an incidental topic bearing upon the question at issue. If the special exception were not made it would be open to the other side to introduce the subject as an argument, but it would be equally open to us to object to its introduction as irrelevant. In view of the nature of the whole question between the two countries he could not but regard it as a mistake on the part of the noble lord to expect a total withdrawal by Mr. Seward and the American people from what he (Mr. Lefevre) considered a bad and a false position. The noble lord might have been satisfied by the concession already made in the course of the correspondence, and it was a mistake to break in upon Mr. Seward with a special exception, which he must have known would lead to the failure of the whole negotiation. Looking at the whole tone of the correspondence, he could not but think that it was the intention of the noble lord to bring the question to a common ground, in which it was possible that arbitration might be admitted on both sides, and at the last moment he was frightened at the position at which he had arrived, and then made the special exception. The noble lord had put the question for arbitration—whether we were morally responsible for the damages caused by the Alabama. What was the meaning of the word morally? It needed some explanation. Was the arbitrator to go beyond the ordinary strict rules and usages of international law, and into the more vague regions of morality? If so, on what ground were we specially to except a branch of the subject which the Americans thought bore upon the morality of the question? If the morality of the whole question was to come under consideration, he was not sure that it might not be for our advantage that the inquiry should be extended. But he did not wish to express any opinion on the main question. He had ventured, within the last two or three years, to differ from the opinion of some learned authorities as to what our international obligations were, and he should be silent on that occasion. He should not enter upon that ques-

tion. There were two classes of objection raised, but he should confine himself to the point he advocated—first, that the question of the recognition of belligerency was so certain that it was not only not right to allow it to form the subject of arbitration, but that it ought to be specially excepted from arbitration; and, secondly, that the dignity of this country would not permit that question to be raised. No one could be more certain than he was as to the strength of our position with regard to the question of belligerency. He believed that war actually did exist at the time of our proclamation of neutrality, and if we wanted proof of the soundness of our position we might refer to Mr. Seward's dispatches, and to decisions of American law courts upon numerous cases of vessels captured on the seas or breaking the blockade as property of the citizens of the Confederate States, in which cases the Supreme Court held that the proclamation of blockade was in the nature of a proclamation of war, and that, in fact, the northern States were exercising belligerent rights. But, however certain we might be upon the point, there were people on the other side of the Atlantic who were equally certain that we were wrong in issuing the proclamation, and that that error had a bearing in some way or other upon the more important question at issue. After all, the main object of the arbitration was to remove serious grounds of dispute which had existed between the two countries, and it would be unfortunate if, by the special exception of this one branch of the subject, there should remain any cause of irritation after the main question had been decided. Then as to the question of dignity. The American government did not desire that the proclamation of neutrality should be actually a question of arbitration, but only that it should be a topic for discussion, and he could not understand how the dignity of this country could be compromised more by this question than by the more important question being brought before the arbitrator. He did not advance these views with any exaggerated feeling of alarm, either for the present or the future. He did not believe that war would result from these claims, though no doubt they might remain a source of irritation which might render it difficult to settle other matters of difference which might arise between the two countries. There were persons who said that Mr. Seward had raised this difficulty merely for the purpose of deferring the settlement, and that the Americans would be only too glad to find us at war, in order that they might seize our vessels. He did not altogether share in that opinion. It was quite true that in a moment of irritation the lower house of Congress had passed a bill to bring their foreign enlistment act into accord with the legal interpretation which our lawyers had put upon ours; but the better sense of the country came to the rescue, and pointed out that in many respects our foreign enlistment act was better than theirs, and altogether more strict and more adverse to such enterprises. He had no doubt that in the event of our finding ourselves at war the American government would do their best to preserve their neutrality; but, at the same time, a government could do nothing except supported by public opinion, and so long as these claims were left in an unsettled state there would, if this country were engaged in war, be many persons in America who would be ready to enter upon enterprises which they now professed to condemn. It was the duty of this country to remove all causes of irritation, to take one great step in advance towards carrying out the policy of arbitration recommended at Paris; and, above all, it was our duty to act in a spirit of friendliness and conciliation towards a country like America, with the people of which we had so many ties of religion, of blood, and of history. He concluded by submitting the motion of which he had given notice.

Lord STANLEY. It is only bare justice to the honorable member who has brought this whole subject before us in so clear and comprehensive a manner to say that he has stated nothing which is calculated to increase any feeling of international irritation that may still remain, or to aggravate those diplomatic complications which have arisen. [Hear, hear.] I cordially agree in one expression used by the honorable gentleman—I mean in the tribute which he has paid to the high character and accomplishments of the existing United States minister in this country, whose services, unfortunately, we are so soon to lose. [Cheers.] No man has ever had a more difficult part to play than Mr. Adams, and no man, as far as I am enabled to judge, could have played it with greater judgment, temper, and discretion. [Cheers.] It is not my duty or my wish to follow the honorable gentleman into his criticism upon the policy of Lord Russell and his colleagues. Lord Russell had great difficulties to deal with, and he has many friends and representatives in this house who will be prepared to vindicate any steps taken by him. My business is with the present aspect of the controversy, rather than with past policy. There was only one remark in the speech of the honorable member which I regret, and that is where for a moment he introduced the character of partisanship into his speech. He spoke of it as an extraordinary thing that a conservative government should have consented to refer this question to arbitration, and seemed to think that on our part change of opinion had followed change of position. Upon that point I must say, though I do not want to revive personal controversy, that I think it would be difficult to point out in the speeches of either my right honorable friend, the first lord of the treasury, or of myself, one word which could prejudge the issue to be raised before the arbitrator. I do not put myself forward as having been in this contest a partisan

of the northern cause. I have always thought that it was not our duty to throw ourselves in a partisan spirit into the internal disputes of foreign countries. I hold that we are bound to give both sides fair play—to apply, as far as possible, the same rule of international law to both; that we are bound to do that, and, having done that, we are bound to do nothing more. I suppose it is unnecessary for any person occupying the position I hold to make professions of his desire to settle the controversy if possible. England can have nothing to gain by keeping it open, and has a great deal to gain by closing it. [Hear, hear.] We have vast commercial relations with the United States; we have a long line of conterminous frontier; we come across one another, so to speak, in every quarter of the globe; we have on both sides an enormous load of debt, which probably neither desires to see increased; [hear, hear, and a laugh;] and it is equally the interest of both sides that we should remain on good terms. I need not say, therefore, that we wish to arrange the matter if we can, and I do not think that in the present state of the case any difficulty arises from the popular feeling in this country. So far from that, undoubtedly the change from the predominant sentiment in the years between 1860 and 1864 was so strong that, if I might venture to say so, I think I have detected a tendency on our part to be almost too ready to accuse ourselves of faults which we have not committed, and take for granted that every point which is doubtful ought to be decided against us. [Hear, hear.] I do not deny that as the world goes, that is an error on the right side. Indiscriminate resistance to unreasonable demands is mere folly and mischief, but indiscriminate concession to all demands, merely because they are strongly urged, whether they will bear the test of argument or not, is a course equally likely to lead to mischief. What we have to do is to try to find out what are the strict rights of the case, to state the case temperately and fairly, endeavor to do justice as far as we are concerned, and, having done that, to appeal frankly and confidently to the existence of a corresponding spirit in those with whom we have to deal. I think there never was a case in which it was more desirable to define accurately what are the points to be settled than that with which we are now dealing; because upon the other side of the water, and perhaps upon this also, the question has been complicated by all sorts of grievances, to the nature of which the honorable gentleman slightly referred—grievances which I will not call unreal, which I do not say are unfounded, but which still are grievances of so vague and general a character that we shall find it very difficult to define them. I do not complain of that; it is most natural; and I do not doubt that if we were in the position of the North Americans we should feel very much as they do. Men who have emerged from a civil war in which they have incurred £500,000,000 and sacrificed 1,000,000 of lives will not be for some time to come in a position to appreciate with perfect coolness the conduct of those who were in the position of critics and lookers-on in the quarrel. [Hear, hear.] I am not now saying whether in my judgment our course was one in every respect of strict neutrality. That is the very question which we are endeavoring to ascertain by arbitration. [Hear, hear.] But if our neutrality had been the most rigid and absolute, it is possible to conceive that it would have fallen short of the expectations that existed among a large portion of the people of the north. [Hear, hear.] What they expected from us at the beginning of the contest was not neutrality, pure and simple, but neutrality so far as all material assistance was concerned, coupled, however, with a strong moral sympathy and support. [Hear, hear.] And when such a feeling exists and is disappointed, as it certainly was in this case, we cannot expect that the disappointment so produced should not find a vent in some quarter or other. I mention this because it is the key to a good deal of the exaggerated tone of writing and speaking which was observable on the other side in the earlier stages of the controversy; and from that point of view I do not at all regret the time that has passed. On both sides we can discuss the matter much more calmly in 1868 than we could in 1864. The passion of the moment has passed away, and only the facts and the arguments remain; and happily, as the case now stands, the controversy, though still pending, is reduced comparatively within the narrowest possible limits. Upon those doubtful questions of fact and law—questions upon which it was not likely, if possible, that the two governments could come to an agreement—we are of one mind so far as this, that we know we cannot agree, and therefore we are prepared to abide by the decision of a third and presumably impartial power. The principle of arbitration, so far as we are concerned, is accepted. They say that it is accepted on both sides, except upon a point of detail. That is a very important step gained. [Hear, hear.] I am not finding fault that this step was not gained before, because I recognize most fully that in a case of this kind time makes many things easy which were not so at first. [Hear.] We have conceded almost everything that was asked for when this dispute began. I think I am right in saying that if it had been possible to grant a limited arbitration, such as is now proposed, when it was first asked for, the question of the alleged premature recognition would never have made its appearance. It was incidentally mentioned, but that was all; but by a peculiar process, which I do not propose altogether to explain, that grievance, whatever its value may be, seems to be gaining importance in the minds of American statesmen and of the American people just in proportion as on this side of the water has grown up a feeling to remove all causes

of dispute. The whole point unsettled between us is this: you agree to refer to arbitration the question of the Alabama and other kindred vessels, but are you willing to include, as a point of reference, whether you were right or wrong in recognizing the Confederate States when you did? That is the whole matter in dispute between us. After all the consideration I can give to the question, as at present advised, I cannot see what bearing the two things have the one upon the other. The practical bearing of the point is whether with respect to the events of 1862 we were right or wrong. I dare say some persons do not accede to that view of the case, and therefore I will endeavor to explain what is my view of the question. I suppose no human being would pretend that at no time during that prolonged struggle of four years had the confederates become entitled to the position of belligerents. Well, but if they were belligerents at some period and were not belligerents at the time we recognized them as such, what was the time when they became properly invested with that character? I will take a date that will bring the matter to issue. If ever they were belligerents I suppose it was after the military events of July, 1861. At that time they had an immense force, they had gained a temporary but an important numerical superiority, and their army was actually threatening Washington. Suppose we had recognized the confederates after the battle of Bull Run; could any human being have found fault with us? If so, how would this have affected the Alabama question? The Alabama escaped in April, 1862, and the battle of Bull Run was fought in July, 1861.

If I had chosen to adopt that line of argument I might have grounded it upon these facts. I grant, for argument's sake, that we were wrong in recognizing the confederates when we did so. I grant, for the sake of argument, that we were in a hurry; that we did it six months too soon. I grant that we ought to have recognized them in August; but, admitting this, how would the case respecting the Alabama have been affected if we had made that recognition six months instead of eleven months before the Alabama sailed? [Hear, hear.] It is upon that ground of irrelevancy that I rest the argument. But there is another objection to compliance with the demands of Mr. Seward as made in his dispatch, that this question of recognition should be referred to arbitration. The arbitration we proposed was perfectly simple in its character and not difficult to deal with. Given two belligerents, given a neutral power, the problem to solve is, "has that neutral power fulfilled effectually and faithfully the obligations imposed by international law?" Granting that international law is sometimes vague and uncertain; granting that new circumstances occur not met by precedents; still the question, as I have stated it, is one in the main governed by recognized international principles, and one upon which a friendly government would not be unable and probably not unwilling to give a decision. [Hear, hear.] But if you complicate the matter by bringing in a question of a totally different character; if you raise the question whether a certain political act was or was not suitable under the circumstances in which the government of the day was placed, how is the arbitrator to come to a decision? Were you to make this—for which you have no precedents—a matter of moral justice or of political consideration? No one will deny that this was a matter affecting us as an independent state, and that we were bound by the necessity of the case to use our own discretion. That doctrine of freedom in such matters has been urged, curiously enough, by no persons more strongly than by the government of the United States. I will cite only two cases. In 1849 the United States government proposed to recognize Hungary as an independent state, not merely as a belligerent, but to recognize the revolutionary government of Hungary as an independent state. [Hear, hear.] The Austrian government complained, as was only natural, and a correspondence ensued. It was conducted on the American side by Mr. Webster, certainly not the least able or eminent of American statesmen, and Mr. Webster used this argument: That if they had done so, though the step would have been precipitate, and one from which no benefit resulted, it would, nevertheless, not have been an act against the law of nations, provided they took no part in the contest. I say that that goes immeasurably further than our conduct in this case. [Hear, hear.] Such is the doctrine distinctly put forth by a distinguished American statesman. I will take another case. In 1857 Texas was fighting for independence against the republic of Mexico. A question arose about the entrance into New York harbor of vessels bearing the Texan flag. The United States government defended the admission of such vessels, and in the course of the argument the foreign minister of the United States government contended that it had never been held necessary as a preliminary to the extension of the rights of hospitality to either party —meaning, of course, the admission of ships of war to the rights of belligerents—that the chances of the war should be balanced and the probability of eventual success determined. For this purpose it had been deemed sufficient that the party had declared its independence and was at the time armed for the purpose of defending it. Will any one declare that, at the time in question, the South had not declared its independence? In the face of the principles put forward by the United States government with respect to this absolute freedom of action in these matters, I confess I do not see how an independent state can contend that another independent state should be compelled to pay a fine, even if it had not exercised its discretion aright. Suppose we had not recog-

nized the South at the time we did; suppose that fortune had turned in their favor and that they had succeeded in establishing their independence; would you say that they were entitled to call us to account for not recognizing them soon enough, and by such delay injuring their prospects? Putting it in that way, the question seems almost absurd; and yet it is not very easy to prove that if we were not responsible in one way we were not responsible in the other. [Hear, hear.] I cannot see how you can argue that damages are not equally due for a too tardy recognition as for a too hasty one. In what position is a neutral power placed when war breaks out? It is a question of general international law; it is a question which will create a precedent, and we were bound to consider not merely what was convenient for the moment, but to regard the rights and duties of nations in general towards one another. [Hear, hear.] The ground I rest it upon in limiting the arbitration as I propose, was, first of all, that the question respecting the recognition of the South was irrelevant to the issue; secondly, that it was a question of statesmanship and policy, and not of mutual obligation, and therefore incapable of receiving legal solution; thirdly, that the United States, in parallel cases, had absolutely refused to admit any responsibility for adopting a similar course; and lastly, I believe no arbitrator would take any reference so vague. I do not propose now to argue the case of the recognition of the South on its merits, for this reason—because I quite agree with the honorable member who brought forward the motion, that in recognizing the confederacy as belligerents at the time we did we were simply declaring on May 13 that a certain state of things was a state of civil war, not on a hasty note, but on four official precedents laid before Congress by Mr. Seward nine, twelve, and sixteen days before the Queen's proclamation was issued. [Hear, hear.] On May 4, nine days before the issue of the proclamation of neutrality, Mr. Seward wrote that the insurgents had instituted a revolution with open, flagrant, deadly war, to compel the United States to assent to dismemberment, and the United States had accepted this civil war as inevitable. I should be sorry to say anything that would bear hardly upon so eminent and accomplished a statesman as Mr. Seward; but really, if it were a question which we could discuss face to face, I should venture to ask him how, with a grave face, he could ask me to call in some neutral and third party to determine whether a British government had a right to call that civil war which, on May 4, Mr. Seward himself called by that name. [Loud cheers.] I will notice in passing that the highest court of law in the United States declared that the state of things which existed was civil war; and I am glad to say that I have no doubt that there has been a change in the feeling here in a few years, and on the other side of the water a corresponding change has taken place. I saw a very remarkable article the other day, quoted from one of the leading journals of the United States—it was from the New York World of February 18—and it lays down, first, that no arbitrators likely to be chosen would say that the Queen's proclamation was a wrongful act; secondly, that it was incapable of being made the subject of arbitration; and, thirdly, that it had nothing to do with the Alabama claims. I think it remarkable that such a declaration should appear in the columns of one of the leading newspapers of a country which more than any other is governed by public opinion. [Hear, hear.] I hope I have said enough to show that the proposed limitation is not arbitrary or capricious; still less is it a mere device to avoid bringing the matter to arbitration, but is founded on an intelligent and sound principle. If the negotiations had for a time been, I will not say broken off, but suspended, the house must acknowledge that the rupture or the suspension did not come from our side. We have made an offer which has been declined, and it is for the complaining party to state their counter proposition. I have heard it said, "You ought to settle this matter at once, or you will be in danger of war with America." I am as anxious to settle the matter as any man in the house, [hear, hear,] but I do not fear that result. I have never concealed my opinion that the Americans, in case of reference, are not unlikely to make out their case to some extent. The money part of the question is one inappreciably small, more especially as we have claims on our side which, if only a portion of them hold water, will arrive at a considerable amount, and will form a not inconsiderable set-off to the claims against us; but in any case, if the matter be fairly investigated, and the decision went against us, we should not be disposed to grudge the payment. [Hear, hear.] If, therefore, the Alabama claims were for a moment kept out of sight, I think it ought to be understood that it is not by the act of our government that this has been done. I know that political feeling runs high in the United States, but I do not think any parties would be so insensible to the interests of their own country as to engage in a quarrel which might lead to a great and costly war for the sake of enforcing in one particular way a claim which it is in their power to settle, and not improbably in their favor, without having recourse to violence. [Hear, hear.] I cannot but think that in some way, indirectly if not directly—and I am not inclined to be very fastidious about the form [cheers]—the United States government may be induced to join in measures which may lead to an arrangement. If they decline, it only remains to be seen whether any other solution of the dispute can be found. Mr. Seward, through Mr. Adams, has more than once thrown out hints respecting something in the nature of a commission to deal with all outstanding disputes between the two countries. I have,

through Mr. Adams, suggested that he should develop that idea. I think international questions are better settled one by one, but I am not disposed to reject any reasonable mode of bringing about a settlement, and if we can agree upon any mode of bringing about a solution, I do not think that either the government, or the house, or the country, would be disposed to quarrel on a mere matter of form. [Hear, hear.] I may say before I sit down that the reception of the new British minister at Washington has been not only friendly, but cordial, and I think I may say that the feeling towards England is increasingly friendly. [Hear, hear.] I have stated the facts of this case as briefly as I could, and I shall leave our action in this case not merely to the judgment of the house, of the public, and of the country, but to that of all fair and impartial persons on both sides of the Atlantic. [The noble lord sat down amid loud and general cheering.]

Mr. W. E. FORSTER thanked the noble lord for the anxiety he had shown to produce a better feeling between this country and America; but he believed that the difficulties which existed were not so great as had been imagined. The honorable member for Reading (Mr. Lefevre) made use of too strong an expression when he said that the negotiations had failed. If that had been so, he (Mr. W. E. Forster) should have deeply regretted it, as he wished to see the principle of arbitration carried out, and he thought that a precedent for it might have been established in the present case. He sympathized with the noble lord in the difficulties he had been called upon to contend with in dealing with this question. The state of things was simply this, that Mr. Seward wished to bring on the question of premature recognition, and the noble lord said that he should not allow him to do so. He (Mr. Forster) did not for a moment sympathize with the American government in their claims against this country on account of what they called the premature recognition; but he must say that he did not think that the ground upon which they based their claim was precisely that stated by the noble lord. He did not think that the American government said anything so absurd as that there was no civil war existing at the time of our recognition, but what they said was that though there was war going on in America, there was no war raging at sea, and that it was not our business, as a neutral power, to take notice of what had happened upon land, and by proclaiming our neutrality hasten the time at which a naval war would be carried on. This was nowhere so well stated as in the first official dispatch relating to recognition which passed between the two governments. It was quite true that, though Mr. Adams, in his first intercourse with Earl Russell, protested against recognition, yet in his first official dispatch, in April, 1865, the ground upon which he put the matter was that it was wrong to acknowledge the South as a belligerent "before they had a single vessel of their own afloat." It was necessary this should be borne in mind, because he was quite sure that this country wished to understand the position taken by Mr. Seward. He thought that he could give, from his own personal experience, some little ground for believing that the United States government were mistaken in the position that they assumed. At the time that the neutrality proclamation was issued by our government he personally was very much interested on behalf of the North. He felt that a war was beginning upon which would depend whether slavery should be extended all over the American continent or should receive its death-blow. [Hear, hear.] He was not ashamed to acknowledge that in that war he was a partisan of the North. Having that feeling, he heard that letters of marque had been sent by Mr. Davis to this country, and the question arose how British subjects could be prevented from having anything to do with these letters of marque. He took legal advice, and was told, first, that vessels sailing under these letters of marque would be pirates, and he believed that 50 years ago they would have been so, and would have been so treated by England. He then referred to Wheaton, the great American authority upon international war, and he found that in his book the law was stated in most distinct terms. He said, "Until a revolution is consummated and while the civil war continues, any neutral government that wishes not to help either of the parties must treat the government *de facto* as a state entitled to the rights of war." Upon reading this, he felt that if he had come down to the house and said that these vessels should be treated as pirates, he should be at once met with the authority of Wheaton for saying that they were entitled to belligerent rights. Still, there was the question how vessels under letters of marque were to be prevented from leaving our shores; and he himself asked the government what steps would be taken to prevent the infringement of the law by British subjects. It was in answer to this question that Sir G. Lewis for the first time stated that a proclamation of neutrality would be at once issued, and that that would set forth the law, which, in general terms, was that no British subject should take part in such a war. This proclamation was not intended in the minds of many people to be considered as unfriendly towards the United States, but rather that it was the only way in which British subjects could be prevented from entering into the war. [Hear, hear.] But whilst he by no means sympathized with the convictions of Mr. Seward in reference to the proclamation, yet he could not but think that the noble lord had somewhat misunderstood Mr. Seward's position. In his closing dispatch on the 9th November, 1867, he said that "We are distinctly informed by Lord Stanley

that the limited reference of the Alabama claims is founded upon the condition that the United States shall waive before the arbitrator the position they have maintained, that the granting of belligerent rights was not justified on any ground of necessity or moral right. This condition being inadmissible, the proposed limited reference is declined." He did not understand Mr. Seward's position to be that the question whether what had been done was according to the law of nations should be referred; but to complain that before entering upon the arbitration he was to be compelled to waive his conviction, repeatedly expressed, that the proclamation was premature and contrary to international law. He could not but think that it was too much for the noble lord to expect that Mr. Seward should give up his opinion on that matter, and record his having done so. If he had said, "I refer the question whether there is any money due in reference to the Alabama ships, and whether we broke the law by granting belligerent rights," it would have been open to us to say, "We will not refer that;" but what the noble lord said was, "We will not refer unless you acknowledge yourself to be wrong in reference to the ground that you have been constantly taking."

Lord STANLEY. No; only that the right should not be questioned before the arbitrator.

Mr. FORSTER believed that Mr. Seward thought that if he entered upon the arbitration he must acknowledge that the assumption that he had made that the proclamation was not called for was a wrong one, and that the noble lord should not have enforced any such conditions. He did not know why we should have refused arbitration upon Mr. Seward's terms, for we had the strongest possible case, and all the noble lord's arguments might have been brought before the arbitrator instead of as reasons why the arbitration should not be assented to. If the arbitration were meant in the spirit of the treaty of Paris—that of an attempt to decide a question between two nations by means of the decision of a third party rather than by war or a threat of war—then the fact that we were confident as to what our right was was no ground for not arbitrating, and consequently if Mr. Seward desired to refer this question, he (Mr. Forster) did not see why his wish should not have been admitted. But Mr. Seward did not ask for this, and it was right that his last dispatch bore a different meaning from his first one. He said first that the whole subject must be referred, and that this included the question of recognition; but after the noble lord's letter Mr. Seward took different ground, or so defined his first statement that it bore a different interpretation. He said that he must be at liberty to contend before the arbitrator that the act of the British government was not right; that this must be among the matters complained of. He thought that what Mr. Seward meant was that he should have the right to use the fact of recognition as an argument in favor of the claims made; and he (Mr. Forster) could not see why he should not be allowed to do so. He thought that Mr. Seward's argument would be a very bad one; and if the noble lord's representative at the arbitration should say that the argument was not relevant it would not be used. He believed that the representative of the United States at the arbitration would have felt that the argument was so bad that we should never have heard of it again. It was very much to be regretted that Mr. Seward had taken the position that he was called on by the noble lord to eat his own words, but after all he hoped that what had happened was only a hitch in the settlement, for he could not but believe that some means of settlement would be found. Everybody in England, and the large body of influential persons in the United States, also desired that the matter should be settled. He believed that there was no party in the United States that did not desire this except the Fenians. If it should turn out that he was right in the supposition that the American government only wanted to make use before the arbitrator of certain arguments, he hoped that the noble lord would not object to their doing so. They should further consider whether arbitration was the only means of settling the matter. [Hear, hear.] There had been tremendous injury inflicted upon American shipping, and there was great reason to believe that if the law remained as it now was, then in future wars great injury would also be inflicted upon English shipping. What naturally came forward under these circumstances was the wish that international law should be so arranged that the inhabitants of both countries should be prevented from carrying on private war. And if America should say, in answer to that proposition, "You must first make recompense for what has passed," why should not that matter be considered? He did not think that it would be inconsistent with our interest if the two governments agreed that the international or the municipal law of both countries should be so altered as to prevent the escape from the ports of either of pirate ships for the future. Such an alteration would do great good. [Hear, hear.] There was another possible means of settling the matter. There were several questions in dispute between the two governments, and he could not but think that, with the willingness of both governments to settle disputes, if some statesmen high in position in this country were sent out by the noble lord, the whole of these questions could be settled. He repeated that there was no party in England that did not wish for a settlement, and he believed that there was no such party in America except those irreconcilable enemies of ours whose only hope lay in such questions remaining unsettled; and if we could get rid of these questions we should strike a greater blow at Fenianism than by anything else which we could do. [Hear.]

Sir G. BOWYER observed that the honorable gentleman had assumed that the Alabama case involved the question of carrying on private war by the subjects of one country against those of another. It seemed, however, to him that there was no connection between the two things. His object in rising was to call attention to the doctrine of international law in reference to contraband of war, as it bore upon the Alabama case. Some persons thought that the doctrine as to contraband of war involved what was called "conflicting rights," because private persons were allowed to deal in contraband of war, and belligerents had a right to seize it. You might, however, as well talk to a jurist of "conflicting rights" as to a mathematician of a triangle of which one angle was greater than another. The principle of international law in reference to contraband of war was clear. It was this, that no government should be held responsible for the ordinary trade of its subjects, when carried on with belligerents. If this were not so, it would be extremely difficult, if not impossible, to maintain neutrality. If a government were made responsible for contraband of war sold to a belligerent, then the sale of a stand of arms, or a barrel of gunpowder, might compromise the neutrality of a country, and it would be necessary for a government to exercise a direct surveillance over the whole trade of its subjects; and this would be a state of things which it would be almost impossible to carry out. Vattel, in book 3, chapter 7, said: "If a nation trades in arms, timber, ships, or muniments of war, I cannot complain if it furnishes these things to my enemy, provided it does not refuse to sell these articles to me at a reasonable price. It exercises its traffic without any intention to injure me, and by continuing that traffic as if I were not at war it gives me no just cause of complaint." Let them apply these clear principles of international law to the case of the Alabama. The southern States being at war, sent to eminent ship-builders at Liverpool to build them ships according to specifications. No doubt these specifications indicated that these ships were to be used for a warlike purpose; but this was a case contemplated by Vattel. It was not for the ship-builders to consider whether the ships were intended for commerce or for war; but the remedy of the United States government was to capture them, and condemn them as contraband of war. It was only by her impartial conduct that England expected to keep her neutrality. There was not a tittle of sound legal argument to support the assumption that the foreign enlistment act made any alteration in the position of England in reference to international law. No country could be bound at the dictation of another country to enforce its own municipal laws; and the difference between a municipal law and a treaty was this, that if the foreign enlistment act had formed a treaty the American government might have enforced its provisions. But with regard to municipal law it was right of every sovereign state to consider with reference to its own interest, and not in any particular instance, whether it would enforce any of its municipal laws. The foreign enlistment act was one of those laws which could not be enforced at the instance of the government, but it could be done at any time in any of our courts by a British subject or a foreigner. The power of the principal custom-house officers to detain a vessel did not in any manner impair the effects of the law as he had laid it down, because what they did in that respect was purely ministerial, and in obedience to a warrant issued by a competent authority. The government of the day ought to have said to the American government: "We do not wish to take unlimited responsibility in this matter; you lay your information before a magistrate and it shall be put in force by the executive." But the government of the day made a great error when they telegraphed to Liverpool to stop the ship, because by so doing they gave the appearance of being themselves responsible. Although he considered it was a mistake their interfering, he was far from thinking that it really altered the merits of the case. It was an act of supererogation on their part, and it was now sought to make this government responsible for the slip or failure that had occurred in doing what the law did not peremptorily require of them. It was an unfortunate circumstance, the escape of the Alabama. It was an accident, and the government stood harmless with regard to it. He was unable to see what fair or reasonable grounds of complaint the United States government had in the matter, and he had laid his argument before the house because that part of the question had not been sufficiently ventilated. He agreed with the honorable member for Reading that a quiet and temperate discussion of the matter might tend to the solution of the difficulty. The feeling of that house, and the people of the country, was friendly towards the United States, [hear, hear,] and he thought the honorable member was wrong in supposing that the conservative party was not friendly towards the north. [Hear, hear.] The recognition of the south as belligerents by the north was a matter more for the consideration of the government than of the House of Commons. It was, in fact, a question of policy, which depended on a great number of circumstances and facts which were better known to the government than they could be to the house, and he thought the house would act unwisely in expressing an opinion on either side. If, however, the question of recognition of the south was sent to arbitration, he thought it would be decided in favor of this country. He could not give his entire assent to all the arguments that had been used upon the question by either side. What had been said with regard to a blockade was a mistake, because there was such a thing as unilateral

war, in which one side used all the rights of belligerents, without conceding those rights to others. It existed and would be urged if they went to arbitration on the point of recognition. [Hear, hear.] It was a doctrine of rather a subtle nature, [hear, and laughter,] but it was well known to those who had given attention to the subject of municipal law.

Mr. SANDFORD concurred in what had been expressed as to the kindly feeling that should be preserved between this country and the United States, and that everything should be done consistent with national honor. The honorable member for Bradford had spoken of the future, but he (Mr. Sandford) hoped that when they considered their future relations with America it would not be by themselves and America only, but by a congress of all the maritime nations, when the maritime laws should be determined in accordance with the principles there laid down. He should not have risen, only that it appeared to him that the honorable and learned gentleman who had raised the discussion did not appear to be aware of the grounds upon which the case on the part of the United States could be urged. The honorable and learned gentleman appeared to think that the sending forth the Alabama was a violation of the municipal laws; but that was not so, for any citizen had a right to send out an armed vessel for the south as for the north, but it was subject to be captured as contraband of war. [Hear.] The only possible ground upon which the United States could urge the question was the violation of the municipal law, but to be able to do that successfully America must be able to prove *mala fides*, or a lax administration of the law on the part of England. He supposed they would urge the latter; but if the Alabama had been seized when she started it would only have been the case of the Alexandra over again. The judges of any violation of the law were the officers of the Crown. That was the principle laid down by Earl Russell and adopted by the noble lord the member for King's Lynn when he came into office. He had no wish to find fault with the noble lord's policy because he was guided by the feeling of wishing to maintain friendly relations with the United States; but the noble lord had taken upon himself a heavy responsibility by submitting to arbitration the lax administration of the law by the executive, which was a new principle with regard to international law. Some years since the Austrian government called attention to the fact that a fabrication of Hungarian notes was going on in this country, but we interfered too late, and according to the principle now sought to be laid down, the Austrian government had a claim against us for the lax administration of the law by the executive to the extent of the loss sustained by that country. He had lately met with a large number of Americans. They seemed animated with a good feeling towards England, and they were perfectly reasonable on every other subject but that of the Alabama, and the moment that was mentioned they gave way to the greatest excitement, and he quoted it to show how deeply rooted the feeling of injustice must be on the part of the Americans. [Hear, hear.] He was unable to say if these negotiations would be resumed, but if they should be, and revived in a calmer spirit, he would venture to suggest to the noble lord the foreign secretary the name of a negotiator. Many names had been mentioned, but the Americans were not such flunkeys as many supposed, nor one-tenth so guilty as ourselves. The name of the person he should suggest was a household word in every part of the United States, viz., the honorable member for Birmingham. [Hear, hear, and laughter.] The honorable gentleman who laughed had not properly considered the question. [Laughter.] His object in appointing a negotiator was to arrive at a speedy and successful termination, and he knew no one more likely to conciliate our opponents than the honorable member for Birmingham. The suggestion might not find much favor in that house, but it would in the country and in America. The appointment of that gentleman would go far to remove the feeling of injustice under which America was now laboring with regard to England and the Alabama, and if any man could conduct the negotiations to a successful and peaceful termination it was the honorable member for Birmingham. [Hear, hear.]

Mr. MILL said no one could have listened to this debate without being ready to admit that it had elicited much of an exceedingly gratifying and satisfactory nature, and it might have been hoped approaching to a greater degree of unanimity in the essentials of the question, if not for the speeches of the two honorable members who had immediately preceded him in the debate, [hear, hear,] who had referred to points of international law chiefly involved in the dispute in a manner which would almost lead one to believe they had not read very attentively the discussions that had taken place upon the subject. He said it with more regret because no fault whatever was to be found with the tone or feeling they had displayed, and in the case of the honorable member for Maldon, on the contrary, an amount of good feeling towards America had been displayed, which perhaps surprised some on the opposition side of the house, but which did not surprise him, (Mr. Mill.) It appeared to him that in reviewing the question of international law both those gentlemen had ignored the distinct and fundamental ground on which the discussion had turned, viz., the broad distinction which the law recognized between trade and contraband articles and the use of a neutral country as the base of military or naval operations. [Hear, hear.] It had never been denied that

a ship of war might have been supplied to either of the belligerents with no more objection or violation of the municipal laws than the export of military stores; but then on condition that the ship should have gone direct to the port of the belligerent to whom she was sold before she went forth to make war on the commerce of the other belligerent. [Hear, hear.] But the case of the Alabama was a totally different thing. An emissary was sent by the Confederate States to make arrangements for fitting out in this country a naval expedition, with which to make war on the commerce of the north. The honorable and learned member for Dundalk had said it was fair if allowed to both parties equally, but the first thing to be considered was that practically it never benefited both equally, and although the liberty might be essentially the same, the party who needed it was benefited, and the other was not. If, therefore, a neutral country lends its country as a place from whence a hostile expedition sets forth, it permitted those things to be done in a place which the opposite party was not allowed to get at, and consequently could not obstruct the other. If the Alabama had been fitted out in one of the ports belonging to the Confederate States, it would have been in the power of the north to have obstructed the operations, either by shutting up the ship, or, by bombarding the dock-yard, have destroyed it. Whatever information the north might have had with regard to the Alabama in this country they could not do that, and consequently this country had committed a breach of the neutrality laws by giving its protection to one of the belligerents against the other. With regard to the point that a country could not be required to enforce its own municipal laws, the honorable member for Maldon had gone so far as to blame the secretary of state for foreign affairs for having consented to refer that question to arbitration. Whether we had or had not allowed our municipal laws to be violated, the foreign secretary had consented to no such thing, because a foreign country had nothing to do with the violation of those laws. The right a country had against England was that we should make municipal laws to enforce our municipal duties, [hear, hear,] and on that ground alone could action be taken. If we had enforced them, and they had been found insufficient for the discharge of our municipal duties, we should still have given a right of complaint to the United States. The question, therefore, to be referred had nothing to do with what our municipal laws might have been; but were we bound by international law to prevent certain things from being done, and being so bound, if we were so, did we do all we could to fulfill that duty? It might be that we were under an obligation to make fresh municipal laws if those in existence were not sufficient to fulfill our international duties. [Hear, hear.] He thought he might congratulate the house and the country on the fact that the point at issue between this country and the United States was but an exceedingly small one. But if a very small point prevented the settlement of a very great question, the greater the reason for lamentation. He did not think there was room for blame in any quarter, for it appeared that the two parties had not thoroughly understood one another. It was said that it was an unfriendly, nay that it was a precipitate, an unprecedented act of which we had been guilty in extending to the southern States of North America the character of belligerents. But, however unfriendly, however precipitate, however unprecedented the act might have been, the Americans had never charged us with committing the violation of international law for which they demanded reparation. What he apprehended the Americans claimed was, that they should be permitted to use the early recognition as an argument to convince an arbitrator that the depredations of the Alabama would not have taken place at all, or, at all events, would not have taken place so very early, but for this act of ours. But, surely, any person who was capable of arbitrating between two great countries was competent to decide what argument was relevant to the question at issue and what was not relevant, [Hear, hear.] He could not help saying how cordially he welcomed the hints which had been thrown out by the noble lord and by the honorable member for Bradford as to the possibility of settling the question. [Hear, hear.] He believed there were very few persons in the country who were not now quite disposed to believe that we owed some reparation to the United States, [hear, hear;] and, if so, we did not want an arbitrator to tell us whether we owed anything, but only what amount we owed. [Hear, hear.] The best thing to appoint would, then, be a mixed commission, to say what were the real damages which the United States sustained from the act of negligence of the British nation in allowing the fitting up and departure of the Alabama. There were people who did not think that an arbitrator would decide against us, but that it would be for the convenience of the country that he should. If some such person should be sent—he would not say whether it should be his honorable friend the member for Birmingham—but if negotiations should be reopened commencing with an admission that we owed the United States something, he could not see that there would be any serious difficulty in getting the question, what we had to pay, fairly settled. [Hear, hear.]

Mr. GLADSTONE said the observations which he had to make would be very few. He could not allow the debate to close without expressing his obligations to the honorable member for Reading for the candid spirit in which he had dealt with the question; and also to the noble lord the secretary of state for foreign affairs for the spirit in which

the whole affair had been conducted. That was a spirit of the most perfect equity, both towards those who preceded him in office and to those with whom he had been in contact. With regard to Lord Russell, the noble lord had said that he was well aware of the difference made by times and circumstances in the way of handling the same proposal from the same parties; and bearing this in mind he (Mr. Gladstone) admitted that the noble lord, when he determined to make the proposal of arbitration with the United States, exercised a sound discretion in taking a step which was likely to lead to a settlement. [Hear, hear.] He had listened with great respect to the speech of the honorable member for Westminister, but he had felt unable to glean the precise point at which the negotiations came to a close. If the effect of the speech of the noble lord had been to show that there was no prospect of a practical resumption of the negotiations, he would have regarded it, with very great pain, as an ambiguity beyond any solution. But the last speaker might be right. If they looked narrowly at the words of Mr. Seward in his letters of the 29th of November last, all that he there refused to do was to waive, by a preliminary point of belligerency, his right to maintain that the Queen's proclamation was not necessary. And so far he might proceed in safety and congratulate the noble lord on the effect which he had produced on the mind of Mr. Seward. He was bound, however, to say that in one opinion of the last speaker he was not able to concur, simply because he did not think it desirable that a misunderstanding should exist on a point of fact. He understood the last speaker to say that there were few members of the house who would hesitate to admit that redress in some form or other was due from us to America on account of the Alabama. He (Mr. Gladstone) did not so understand the speech of the noble lord; and he frankly owned that, if this were so, he would suggest that England should at once tender reparation. He was, also, afraid that his honorable friend was over-sanguine in his assumption that, by admitting the claim of the United States to reparation and compensation, he would secure the settlement of other controverted questions. They had all heard with the greatest satisfaction the closing sentence of the speech of the noble lord. They learned from this that, although the correspondence had dropped, yet that a friendly and amicable prosecution of the subject was still going on, and that there was now in the hands of the government a communication which was likely to be developed into further stages for the settlement of the question. [Hear, hear.] If that were so, he could only say that while, on the one hand, there was every reason to believe that the honor and the interests of this country would be safe in the hands of the noble lord; on the other, he might rely with confidence that, in every part of the House of Commons, as well as in every part of the country, there would be a disposition to strengthen his hands, so as to enable him to perform the arduous and difficult task of settling this question, which, if not properly arranged, might lead to most disastrous results. [Hear, hear.]

The motion was then withdrawn.

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*Mr. Adams to Mr. Seward.*

No. 1551.] LEGATION OF THE UNITED STATES,
*London, March* 11, 1868.

SIR: I have to acknowledge the reception of dispatch No. 2135, of the 25th of February.

The debate upon the state of Ireland was commenced last night in the House of Commons by Mr. Maguire, the member for Cork. It will probably continue for some time and develop the conflicting nature of the views held by the various sections into which the body is now divided. It is the wish of a portion of the opposition to assume some ground upon which a trial of strength may be made with the government. But it is very doubtful whether anything they could select would concentrate the party sufficiently to secure a triumph. It is alleged that the number of members who are likely to lose their seats on an election under the new reform act is so considerable, that nothing which may involve a question of immediate dissolution is likely to find favor; besides which, any attempt to overthrow the Irish church establishment, the most assailable of all grievances, is met by a degree of resistance from allies in this kingdom which is not the less effective because it makes little noise.

It is expected that this debate will ultimately draw out much of the leading ability of the House. I transmit a copy of the *Times*, containing a report so far as it has yet gone.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1552.] LEGATION OF THE UNITED STATES,
*London, March* 11, 1868.

SIR: I incline to the opinion that this government would be glad to relieve itself of the burden of most of the remaining persons taken in the Jacmel. Already they have liberated three on condition that they would leave the kingdom. Unluckily they were wholly destitute of funds to defray their passage. Under these circumstances the consul at Dublin wrote to me to know whether he should advance the means on the part of the government. Having no instructions to justify me in undertaking the experiment, I nevertheless concluded to authorize the expenditure on my own responsibility in case the government should decline to assume the expense. This materially reduces the number of citizens of the United States remaining in prison awaiting trial.

A person calling himself Robert Mackay is now on trial at Cork for the murder of a policeman. He has made no application, so far as I know, to the consul at that place, nor to me, for protection as a citizen of the United States. I suspect there may be some desire for concealment which has prompted this course, as he is affirmed by some of his friends to be a native American. I received a letter from one of these persons in Cork urging that the expense of his defense should be assumed by me for the United States. The offense charged being that of murder, the case did not seem to me one in which interference with the ordinary course of law was justifiable on my part, even if I had authority, and he were proved to be a citizen, native or adopted. The truth is that the course taken in the cases at Dublin has led to a belief that any man arrested for crime is entitled to be defended by the government. The urgency comes now not so much from the parties themselves as from their Irish friends here, who are obliged to tax themselves heavily if they fail to throw the burden on the United States. It is perfectly natural that they should seek this mode of relief.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1556.] LEGATION OF THE UNITED STATES,
*London, March* 20, 1868.

SIR: On Saturday last I received, at my house, a small number of representatives of the British branch of the International League for Peace, who had expressed a wish to present to me an address on my ap-

proaching departure. It had been the wish of the parties at first to make a very large deputation, and to give to the affair an aspect of political as well as of official importance. But mindful of your instructions as conveyed to me in your dispatch No. 1216, of the 31st December, 1864, I insisted upon regarding it as a private communication made to me personally, and answering it in that sense. The proceedings, however, got into the newspapers, and you have doubtless seen a report of them before this time.

I ought, perhaps, to mention that overtures have been made to me from several sources, independent of each other, to accept some public entertainment prior to my quitting this post. This is a step so unusual in the case of a foreign minister, and so likely to be embarrassing as a precedent in possible future cases, that I very promptly but respectfully signified my reluctance to have the matter in any way agitated. The propriety of this course seemed to be ultimately admitted even by those who urged it.

It is certainly in the highest degree gratifying to me, as I trust it will not be unwelcome to the government, to find my labors for a considerable period appreciated here among all classes in so unprecedented a degree, particularly when it has been a chief part of them to reiterate complaints and maintain conflicts of a most critical nature to the pacific relations of the two countries. I have endeavored to impress upon the public mind the fact that in whatever of action they are disposed to give me so much credit for, I have never been in any other than a subordinate position, and that without the full authority and cordial approbation of my government my efforts could have been of little avail. I trust that the effect of this may be to lay the foundations in the future of a better understanding between the countries than has ever yet existed. Their relations can never fail to be very close, and their interests, though often rival, are in substance the same. If I have done anything to open the way to a firmer mutual conviction of this truth, I shall hope for my mission that it will not have been wholly without benefit to the world.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1557.] LEGATION OF THE UNITED STATES,
*London, March* 21, 1868.

SIR: I have the honor to transmit a copy of the London Times of this morning containing a report of a debate in the House of Commons last evening on the question of citizenship and naturalization. The observations made by Lord Stanley seem to have been received with general approbation. It is now tolerably clear that a road is open to a full consideration of this difficult subject in all its bearings upon the quickened state of international intercourse in the present day.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[From the London Times, March 21, 1868.]

## THE LAW OF EXPATRIATION.

HOUSE OF COMMONS, *March* 20.

On the motion for going into committee of supply, Mr. W. E. Forster rose for the purpose of calling the attention of the house to the effect of the law regulating the allegiance of subjects of the Queen who have emigrated to foreign countries, and especially to the United States of America, and of asking the secretary of state for foreign affairs whether he did not think that the time was opportune for attempting to arrive at a mutual understanding between her Majesty's government and the government of the United States respecting the right of expatriation. He believed that the claims made by this country in connection with this subject had operated greatly to our disadvantage in our intercourse with foreign nations, and the time had now arrived when we might properly inquire whether it would not be for our interest to modify those claims to some extent. In order to bring the subject fully before the house it would be necessary for him to refer briefly to the law upon this question as it stood at present. As far as he could make out there appeared to be two classes of British subjects—those who were so by the common law and those who were so by the statute law. By the common law all persons born within the dominions of the Queen were British subjects, notwithstanding the fact that their parents might be foreigners who were within those dominions merely on a visit. There were two ways by which persons might become British subjects under the statute law—firstly, by being naturalized under certain conditions mentioned in the act of parliament, and secondly, under the provisions of the act of George II, which enacted that all children of British subjects who might be born out of her Majesty's dominion were entitled to the privileges of British subjects. The latter act was supplemented by the act of George III, which extended those privileges to the grandchildren as well as the children of British subjects born abroad. There was, however, this difference between the natural-born subject and the children and grandchildren of British subjects born abroad, that allegiance was claimed from the former alone. It had been stated by a very able writer in the Times, who wrote under the name of "Historicus," that it was a question whether we did not claim allegiance from the children and grandchildren of British-born subjects, even although their parents had been all their lives abroad; and it was important to look closely into this point, as it concerned a large number of the present population of the United States. A similar opinion as to the extent of our claims appeared to be prevalent in America, and a portion of the excitement in that country was doubtless owing to that notion. That, however, was an erroneous opinion, as the statutes appeared to him to be enabling rather than compulsory. The law, however, upon the point was far from clear, and it would be well for parliament to define the extent of our claims, so that there could be no doubt upon this branch of the subject. The law respecting the British-born subject was, however, perfectly clear, and it asserted that by no act of his own could the British-born subject get rid of his allegiance to the Crown. Upon this point Blackstone, in defining the conditions of allegiance, said:

"National allegiance is such as is due from all men born within the sovereign's dominions immediately upon their birth, and cannot be forfeited, canceled, or altered by any chance of time, place, or circumstance, nor anything but the united concurrence of legislature; and an Englishman who removes to France or to China owes the same allegiance to the King of England there as at home, and 20 years hence as well as now; for it is a principle of universal law that the natural-born subject of one prince cannot by any act of his own—no, not by swearing allegiance to another—put off or discharge his natural allegiance to the former; *nemo potest exuere patriam.*"

It was rather remarkable that this was the only country which carried its claims to allegiance to this extent. On the continent they treated the matter not so much as the claim of the sovereign to the allegiance of the subject, which never could be broken, but rather as the right of the citizen to assistance and to privileges which, under certain circumstances, he might forfeit. Thus, the Code Napoleon, cap. 1, laid down "that the quality of a Frenchman is lost by naturalization in a foreign country," the French principle being that "*personne ne peut avoir deux patries;*" although it was true that Napoleon in 1811 declared that all Frenchmen who should change their nationality without the consent of the state should be liable to certain penalties. Prussia went almost as far in the other direction as we stopped short of it, and adopted a principle which he trusted would never be accepted in a commercial country like this—that a citizen lost his privileges by residing 10 years in a foreign country. But the matter was set upon what he regarded as the proper footing by the Italian code, which was said to be the newest and the best edition of the Code Napoleon. By that code the rights of citizenship were lost by declaration made before a civil authority and by subsequent emigration, by accepting employment from a foreign government, or in entering into its military service, or, finally, by becoming naturalized in a foreign country. The doctrine which was upheld by this country was upheld by ourselves alone, and

this was the more astonishing inasmuch as no country furnished such a number of emigrants to all parts of the world. But there was also this remarkable fact, that we had been compelled to give up the principle on which it was founded. Originally that principle was that while we claimed the allegiance of all British subjects we in return afforded them protection. Blackstone distinctly stated in his Commentaries that such was the case:

"Local allegiance is such as is due from an alien or stranger born for so long a time as he continues within the King's dominions and protection, and it ceases the instant such stranger transfers himself from this kingdom to another. Natural allegiance is perpetual; local allegiance is only temporary, and for this reason, evidently founded upon the nature of government, that allegiance is a debt due from the subject upon an implied contract with the Prince that so long as the one affords protection, so long will the other demean himself faithfully."

But we had found it impossible to carry out that principle, and a curious proof of the fact was furnished during the course of the late American civil war. Thousands upon thousands of English and Irish emigrants in America endeavored to claim exemption from the conscription and from enrollment during that war, but we found it impossible to assert their right to exemption after they had taken any step toward renouncing their allegiance to the English crown. Consequently we gave up all idea of affording them protection, but we still claimed to regard them as subjects of the Queen. Now, by the United States census of 1860 it appeared that one-seventh of the population of the United States were born abroad. Of these about 2,450,000 were subjects of the Queen, no less than 1,600,000 of them having been born in Ireland. Yet most of these persons were citizens of the United States; nearly all intended to be. The house was, perhaps, aware of the oath that was taken by an alien desiring to become a citizen of the United States. It ran as follows:

"I, A. B., do declare on oath that I will support the Constitution of the United States, and that I do entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, particularly (here came the name of the sovereign of the country in which the person was born) to Victoria, Queen of Great Britain and Ireland."

That oath could not be taken before the person had resided in America five years. But there still remained another oath:

"I do declare my intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to every," &c.

Those were the oaths that were taken by a vast number of emigrants; and it would be useless to attempt to disguise the fact that in the case of a great number of the emigrants the oaths were taken with a full cognizance of their meaning, with a full intention of keeping them and never returning to our shores, and that a large number were very glad to have the opportunity of renouncing their allegiance to the Queen of England. But our law defied the right of the United States to protect its citizens. What had been the result of this conflict in the laws of England and the United States? There were many persons in America who undoubtedly wished to make it work as badly as possible, and they were somewhat encouraged in this by the way in which the law had worked in times past, for it was this conflict of allegiance that gave rise to the war between ourselves and the United States in 1812. That that was really the ground was evident from the Prince Regent's declaration in reply to the President's proclamation of war:

"There is no right more clearly established than the right which a sovereign has to the allegiance of his subjects, more especially in time of war. Their allegiance is no optional duty which they can decline and resume at pleasure. It is a call which they are bound to obey; it began with their birth and can only terminate with their existence."

That certainly appeared to be an argument that we were still asserting abroad. We were now in this difficulty: some of the returned Irish emigrants had, upon being arrested, claimed the rights of American citizens, and those rights were, as was properly the case under the present state of the law, refused to them, because by law they were British subjects. The house was doubtless aware of two or three cases where the difficulty had recently arisen. There were, for instance, the cases of Captain Jacknell and of Warren, in the latter of which Chief Baron Pigott said:

"According to the law of England—a law which has been administered without any variation or doubt from the very earliest times—he who once is under the allegiance of the English sovereign remains so forever."

The result of this claim had led to considerable excitement in America. Meetings had been held, and the matter had been brought before Congress. He was perfectly aware that the excitement had been increased by interested parties, by agents of the Fenian conspiracy, and that there had been great exaggeration. It had been stated that American citizens had been arrested in England on account of acts committed in America, and other statements equally devoid of foundation had been spread abroad. Still the excitement had been considerable. One doctrine, among others, that had been

brought forward in the American House of Representatives, but brought forward, he was glad to say, only to be denounced by all present who possessed any influence, was that if we persisted in our claims our action should be met by reprisals. It was only due to America to say that though such a doctrine had been mooted, it had found no favor. [Hear, hear.] But to show what the feeling of the Americans on the subject really was, he did not think he could do better than read the letter written by Mr. Webster to Lord Ashburton in 1842:

"A question of such serious importance ought now to be put to rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores; if by the benign influences of their government and institutions, and by the happy condition of the country, those emigrants become raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights; if all this may be done, (and all this is done under the countenance and encouragement of England herself,) is it not high time, my lord, that, yielding that which had its origin in feudal ideas as inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the Old World and the New, England should at length formally disclaim all right to the services of such persons, and renounce all control over their conduct?"

Proceeding to discuss the probable disadvantages which would arise if we gave up this right, he considered, in the first place, whether we should be in a worse position than we now are in dealing with the Fenian conspiracy. He thought not. [Hear.] It was true that if the Fenians were treated as aliens they would have the power under the existing law to demand a mixed jury; but the question immediately arose whether it was wise to continue in operation a law which had been passed centuries ago to meet the necessities of a totally different state of society from the present; nations were not now separated as in former times, and less cause for fear existed that foreigners in any country would be treated with injustice. This law could at least be dispensed with as far as America was concerned; no such law existed in the United States, though, of course, American citizens were justified in applying for a mixed jury in England as long as the law was in operation. It was also true that if Fenians were regarded as aliens they would have the right of claiming the protection of the minister representing the country from which they had come; but although no minister would refuse to entertain a demand for protection by any of his country's subjects, it was quite open for him to refuse to respond to that demand on making sufficient inquiry. Still, it should also be remembered as an element in the calculations that all foreign ambassadors did not possess so remarkable mixture of prudence and moderation, coupled with a just estimate of the rights of his own country, as distinguished the present United States minister. [Hear.] A remarkable distinction was drawn by our law between British subjects and aliens, and that was that a British subject could be tried in England for treasonable practices committed abroad, and an alien could not; but in both cases acts committed abroad might be alleged in our courts as evidence of intent regarding treason at home, for which either might be tried. Of course, if Fenians were treated as aliens this right would be given up; they could not be tried here for treason committed in the United States. But he presumed no government would think of prosecuting a man in England for treasonable speeches made in New York. The feeling which would be excited in the States by such a proceeding might easily be estimated by imagining our own feelings if the Russian government prosecuted a Pole for speeches in London against the conquerors of his country. "Historicus" recommended that we should enlarge the principle of our law and make agreements with foreign countries to try aliens as well as subjects for all illegal acts, including treason, whether committed at home or abroad; but he was sure our foreign minister would be sorry to have the settlement of the complications which would arise if this suggestion were adopted. Another objection which it was necessary to meet had originally presented itself to him with some force, and that was the necessity we were under to be careful not to shake the principle on which patriotism was founded. But on examining this question more closely he found that it formed a strong argument the other way. To allow a man to play fast and loose with the country, to permit him to go to the United States and commit acts offensive alike to our sovereign and our country, and then to return here and claim the rights of a British citizen, was sapping the very foundation of patriotism. Those persons who, in swearing allegiance to a foreign state, renounced their allegiance to our Queen, deserved no consideration; those only who desired to owe temporary allegiance to a foreign state with the full and honest intention of returning to this country at a future time, should have an opportunity of again obtaining the rights and privileges of a British subject. The case of these persons might be met by some such agreement as that come to on the 22d of February last between Prussia, as representing the North German Confederation, and the United States, the terms of which he believed to be as follows:

"1. Every subject of the North German Confederation naturalized in the United States of America, and having resided there during five years, shall be considered by the North German Confederation as an American subject, and treated as such."

On his return to the United States he would enjoy all the rights of American citizenship, and during any stay in Prussia no attempt would be made to force his service in the Landwehr. The convention further provided that—

"2. Every naturalized subject of either state who may return to the land of his birth cannot be prosecuted for any criminal offenses, unless they shall have been committed by him previously to his expatriation. 4. Every naturalized subject who, having no intention of returning to the country of his adoption, resides continuously during two years in his former country, is presumed to have renounced his naturalization."

This convention might be regarded as the result of long negotiation between two nations desirous of enabling their citizens to expatriate themselves. He then came to the question what arrangement could be made to enable persons to repatriate themselves, if he might use an obsolete word. A congress of nations had been suggested, and he favored this suggestion because the matter did not seem to be so much a subject for treaty as for mutual understanding. He noticed also that "Historicus" recommended it, and he observed that the subject he had mooted was one which could with great propriety have been submitted to that quintennial or decennial congress of nations proposed by the Emperor of the French if that proposal had been carried out. But if with reference to this suggestion of a congress it was said that questions might arise such as extradition and criminal jurisdiction, which it would not be well to discuss in a congress partly composed, perhaps, of despotic powers, no such argument could justly be adduced in opposition to a proposal to come to an understanding on the matter with the United States, and for the purpose he suggested the appointment of a general commission of subjects of the two countries. A commission might be appointed, composed of some of the ablest and best men of both countries, who would carry with them the confidence of their own nation, and very likely also that of the other. The American law required almost as much alteration as ours. America was the only other great country besides England that denied the right of expatriation. On that matter there had been a curious conflict between American law and American diplomacy. The American government had found it necessary to protect the men who emigrated to their shores; yet their jurists had always stuck to the doctrine of perpetual allegiance, which was part of the common law of England; and America has shared our difficulty in getting rid of these old principles of law. In his last general message to Congress, in December, 1867, President Johnson, alluding to the negotiation with Prussia, said:

"In connection with this subject, the attention of Congress is respectfully called to a singular and embarrassing conflict of laws. The executive department of this government has hitherto uniformly held, as it now holds, that naturalization in conformity with the Constitution and laws of the United States absolves the recipient from his native allegiance. The courts of Great Britain hold that allegiance to the British Crown is indefeasible, and is not absolved by our laws of naturalization. British judges cite courts and law authorities of the United States in support of that theory against the position held by the executive authority of the United States. This conflict perplexes the public mind conerning the rights of naturalized citizens, and impairs the national authority abroad."

Mr. Johnson was perfectly justified in that statement, because the highest authority among the Americans, Chancellor Kent, said:

"From this historical review of the principal discussion in the federal courts on this interesting subject in American jurisprudence, the better opinion would seem to be that a citizen cannot renounce his allegiance to the United States without the permission of government, to be declared by law; and that, as there is no existing legislative regulation on the case, the rule of the English common law remains unaltered."

Their next best authority, Justice Story, gave the same opinion. Therefore a joint commission might do a useful work for both countries, and define what was a British subject and what an American citizen. The question of naturalization and that of the position of aliens would come before it. England and America seemed to be behind other civilized nations in their treatment of aliens. France, he believed, did not make it impossible for aliens to possess land; but England and America did. England allowed naturalization without any term of previous residence; while America required five years' residence. In the United States naturalized citizens might, after seven years' residence, become members of the House of Representatives, and after nine years' residence members of the Senate; whereas in England, notwithstanding the facilities afforded by an act of 1844, naturalized subjects could not sit in the legislature. But for the accident of the act of George III coming to his rescue, the honorable member from Banbury (Mr. Samuelson) could not now be a member of that house. He really did not see why constituencies should not be at liberty in such cases to elect whom they thought fit. In considering the subject of expatriation and repatriation various legal difficulties would probably arise. One of those difficulties would relate to the position of children; and it would be well to look at the French mode of meeting it. In France, instead of the child of every French subject abroad becoming necessarily a French subject also, the option was given to the child of choosing his country within one year after he became of age. That appeared to him a principle which had much justice to recom-

mend it. Or, possibly, this rule might be adopted—namely, that every child of a British subject might at any time, after a certain term of residence, be entitled to claim the full rights of citizenship. But the rather absurd act passed in the reign of George III, although it had certainly been of great advantage in the honorable member for Banbury's case, could scarcely be maintained. 'If an Englishman went to France or America, lived there, died there, had a son who also lived and died there, and had a grandchild who happened to come to England, he did not see how he should then be deemed a British subject. In conclusion, if the mode of settling these questions which he advocated were fairly tried, and proved, as he hoped it would, successful, he believed such a result would lead to its adoption in regard to other matters of dispute between this country and America, so as almost to make the occurrence of war between the those two nations impossible. [Hear, hear.] The honorable gentleman concluded by asking the secretary of state for foreign affairs whether he did not think the time was opportune for attempting to arrive at a mutual understanding between her Majesty's government and the government of the United States respecting the rights of expatriation.

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Lord STANLEY. I think the honorable member for Bradford has done good service in bringing this question forward. [Hear, hear.] And, reserving my opinion upon some points of detail which it is hardly necessary to discuss, and upon some matters as to which I do not feel that I am called upon to offer an opinion, I will at once say that I do not see any reason to dissent from the general tendency of the views expressed by the honorable member. He stated, and stated very truly, that as long as the United States law remains, as practically I believe it is, identical with ours, we have a very fair reply in any controversy which may arise. But that is no reason why we should not agree to amend anything in the laws of both countries which may be unsuited to the purposes of the time for which we live. From the moment when these questions first arose I have carefully guarded myself, when speaking in the name of her Majesty's government, against even the appearance of a wish to stand up for the maintenance of that doctrine of indestructible natural allegiance which seems to be so entirely unsuited to the case of emigrants, and still more to the descendants of emigrants. Putting aside the extreme theory on the subject, I believe some doubt exists whether the rule can legally be said to apply to the children of emigrants; but even as regards emigrants themselves it seems to be hardly defensible in theory, and it is certainly unworkable in practice. It is hardly defensible, because in any country where emigration is sanctioned and encouraged, and where that emigration notoriously takes place to a foreign country, the government, by the sanction which it gives, must be held to contemplate that those who emigrate, not to speak of their descendants, do in most cases intend to sever themselves from the country of their birth. If we attempted to make good the claim which theoretically exists in the case of all British subjects who have expatriated themselves, we should be obliged to apply that law to the many thousands who have scattered themselves all over the States of America, over whom, if we wished it, we could exercise no control whatever. I think a good deal of misunderstanding exists as to the bearing of this question upon the *status* of persons engaged in a conspiracy against the government of this country who may be brought to trial here. A great deal has been said about men being punished before a British court of justice for acts done in America. I apprehend that is a case which only arises once in a hundred times. [Hear, hear.] Then a great deal is heard about the claims of persons over whom we seek to exercise no national rights to be tried by a mixed jury. But it is perfectly clear that the right to be so tried is not a matter of international obligation; it is only a regulation of our own municipal law, [hear, hear,] which we should have a right to abolish to-morrow if we thought fit, without any foreign government having reason to complain. That consideration, therefore, we may put out of the question. The only other advantage that I can see which an alien tried for some Fenian offense here would have over a British subject would be the power of appealing to his own government for their interference and protection. I apprehend that that would not be of any practical importance in a civilized state of society, though it might have been of some advantage in a ruder state. If a person born in England were, on returning from America to this country, tried for a political offense, and if he claimed to be an American citizen, and declined to be regarded as a British subject, he would be in some respects in a worse position as regards his own case than before any alteration of the law. It was some advantage to a man, however misguided his conduct may have been, to say that he was endeavoring to redress the wrongs of his country; but if he severed himself altogether from his native country and settled in another, becoming a citizen of that other country, then his *locus standi* for interference in the affairs of his native country is absolutely gone. [Hear, hear.] He is then not a man endeavoring to redress the grievances of his own country, but he appears in the character of a foreign revolutionist. [Hear, hear.] I may perhaps say that I have directed the British minister at Washington to express to the government of the United States our willingness to take this whole question into consideration, [hear, hear,] and if they act in the same spirit with us we are willing to meet them half way. [Hear, hear.] But when we come to consider the details the matter is not quite so simple, for there are many legal difficulties connected with the

succession of property in this country or in other countries, and other points of an analogous nature, which would require a good deal of careful and minute examination before they could be satisfactorily dealt with. It is quite true that a treaty has been concluded between Prussia and the United States which deals with this question. I have seen, confidentially, a copy of that treaty, and it contains absolutely no provision for meeting those difficulties I have adverted to, and which I do not think we can ignore altogether in legislating. If it were a question of extradition only the matter would be simple; but when it is a question of what is to be done with those who emigrate to another country and desire to assume there the rights of citizenship, more complicated questions arise; for any alteration of the laws which affect British subjects affects all the inhabitants of the British colonies. Many of those colonies have independent legislatures, and we must consider them in making any alteration in our municipal law. I am in communication with the government of the United States on the subject, and though not willing to give any absolute pledge to the house, I think it likely before anything can be concluded that it will be desirable or necessary to have an inquiry by competent legal authorities. I do not think that in a matter of this kind we ought to act with too much haste. As long as there is an understanding as to the general principles on which we desire to act, questions of detail may be left for further consideration; and as to the mode of effecting the desired object, I trust the house will leave that point for the consideration of the government. [Hear, hear.]

Sir R. Palmer did not rise to disturb the general concord of opinion which appeared to prevail in this debate. He quite agreed with what had fallen from the noble lord that we should review the law of the country, to see what reasonable and wise arrangement could be made, not to prevent misunderstanding, but to facilitate that interchange between country and country which was so much wanted in present times. But there was one question of principle to be decided, as to which it was desirable that the misunderstanding which did prevail should be to some extent dissipated. The principle always applied in construing general words in legislation of a particular nature, was that they were to be understood as applying solely to those persons and things which were properly and *de jure* the objects of that legislation. Thus, Great Britain was not supposed by these acts to be imposing burdens upon the subjects of China or of other countries. This country might confer privileges upon the subjects of those countries, but she could not impose burdens upon them without their consent. He should have thought it impossible to read the two acts of the 4th of George II and the 13th of George III together without seeing that the legislature as good as declared that all they intended by those acts was to confer benefits, and not to impose burdens upon the foreign-born children and grandchildren of natural-born British subjects. Had the extravagant and absurd construction which some persons sought to put upon the words of the first act been correct, and all foreign-born children of British-born subjects been subject to the same burdens and privileges as natural-born subjects, it would have been unnecessary to pass the second act, as it would naturally have followed from the provisions of the first act that the foreign-born grandchildren of the British-born subjects would have been equally subject to those burdens and privileges with their foreign-born fathers. The language of the second act, however, showed clearly that such a construction of the first act was wrong, as it was merely passed to continue those privileges to the foreign-born grandchildren which were extended by the first act to the foreign-born children of British-born subjects, there being no intention to fasten upon such persons any burdens whatsoever. That was the first branch of this question, and he was glad of having had an opportunity of stating his distinct and deliberate opinion upon it. The next point to which he wished to direct the attention of the house was also one of principle. Many persons, when speaking or writing upon this question, appear to forget that as long as a British subject, whether natural-born or not, was resident in a foreign country, he was to all intents and purposes a subject of that country and subject to its laws. Such a foreign government had a right to say to the British resident, "We have nothing to do with your former allegiance. Whatever our laws require from you, that we have a right to exact from you during your residence here." And except in cases of mere travelers the foreign government had no right to say, "We will pass a law which will extend an exceptional protection to you during your residence in a foreign country, to whose laws you shall not be subject." We had no right to say that Englishmen should be entitled to hold an exceptional position in the United States because they owed us allegiance. The United States might well reply to such a proposition, that while British subjects were in America they must be subject to the laws of that country, and that when they had taken the oath of naturalization the American government had a right to treat them upon the same footing as if they were natural-born American subjects. This constructiou of the law, he submitted, was quite consistent with the right of this country to impose upon such foreign residents the obligations of their allegiance when they returned here. Whether we went too far in making certain acts committed abroad cognizable by the laws of this country was a question for discussion, but it was not one which involved any fundamental principle that ought to lead to any difficulty. Speaking with due deference to the opinions of those who differed from him upon the matter, his study of the laws of foreign nations had led him to believe that

there was not such a great difference between those laws and that of England upon the question of expatriation. It was true that the laws of some foreign countries declared that the quality of citizenship should be taken away from those who did certain acts, but this he understood to mean that by doing certain acts such persons should forfeit, not the burdens, but the privileges of citizenship. For instance, should a person thus deprived of his citizenship bear arms against his original country, he would be called to account for his conduct in the event of his return, and the excuse that he had forfeited his citizenship would not protect him from the penalties attached to his offense. He did not believe that the laws of any nation affirmed that a native of a country was at liberty, at his own will and pleasure, to divest himself of the obligations of his allegiance—to act as an enemy of his sovereign, and then to return home and excuse himself on the ground that he had changed his nationality. He agreed that our law went rather too far in treating British-born children of foreign parents, who might be merely passing through this country, as British-born subjects, and he thought some alteration should be made in our legislation upon that point in the case of *bona fide* travelers. [Hear.] It might be quite possible to introduce some alterations in our laws respecting persons who emigrate, and who intend to reside abroad permanently; but such a change should be accompanied by provisions which would render such persons subject to the burdens of their allegiance in the event of their returning to live in this country. [Hear.]

The attorney general said that the observations which had just fallen from the honorable and learned member for Richmond showed conclusively the justice of the remark made by the noble lord the secretary for foreign affairs, that this subject was not so perfectly clear as it appeared to be at first sight. The noble lord said that he viewed with no unwillingness to gratify it the desire on the part of the United States that some new arrangement should be come to with regard to persons who had naturalized themselves in that country. It was doubtless very pleasing and very easy to say that, but it was difficult to legislate in such a direction. On the one hand, we treated the subject of this country resident abroad as liable to the burdens of his original allegiance even during a temporary return to this country; while, on the other, the United States said that the British subject naturalized in that country should become a citizen of America to all intents and purposes, and should cease to hold allegiance to his native country. That was not the case here, because the statute 7th and 8th of Victoria enacted that when any person became naturalized in this country he should not be asked to abandon his native allegiance, but merely to give a temporary allegiance to this country during his residence here; and it proceeded to declare that if he was absent from this country without permission for more than six months he should lose his naturalization, while at the same time our laws declared that a natural-born subject could not cast off his allegiance by any means. It was, however, now proposed that we should pass a law by which the British-born subject naturalized in America should become to all intents and purposes an American citizen. He repeated that it was very easy to make that proposal, but before such a law could be passed it would be necessary to look carefully through the statute-book to see what consequences might flow from such legislation affecting the interests of real property in this country, and the rights of those persons and their children who went to America. Another most material question to consider was the subject of repatriation. The honorable member for Bradford had said that by a Prussian treaty it was provided that a Prussian subject who had been naturalized in America, and who then returned to Prussia or the German confederation without intending to return to America, would be deemed to have renounced his right to American citizenship. (Mr. Forster, "After residence for two years.") He did not, however, understand what were to be the rights of a man who had so returned to the country of his birth, or what was the effect of his temporary expatriation.

Mr. Forster. Upon his return he is treated as an American citizen until the expiration of the two years.

The attorney general understood the honorable gentleman to say that after that time he was no longer to be regarded as an American citizen or to be treated as such. But this was one of those cases in which there was a great deal of difficulty in entering into an arrangement. He could not help thinking that before any treaty or arrangement was made upon this subject, however willing we might be to enter into such an arrangement, the rights of our countrymen who went to America and were naturalized ought to be fully considered, and the effect that any proposals would have upon some of our laws—the laws of inheritance, for instance. He did not wish at the present moment to enlarge upon that subject. It should be remembered that our municipal law had been to a great extent copied in the United States, and that a child born in this country of a citizen of the United States was deemed to be a citizen of the United States. He was not going to discuss the construction which the honorable member had put upon that statute, but it was quite clear that before this matter was determined by any treaty, or any arrangement was entered into, great care should be taken to see how far the law of this country would be affected, and how far the rights of British citizens would be involved by interference with the statute law. [Hear, hear.]

The subject then dropped.

*Mr. Seward to Mr. Adams.*

No. 2144.] DEPARTMENT OF STATE,
*Washington, March* 23, 1868.

SIR: Your dispatch of the 7th of March, No. 1549, has been received, together with a copy of the debate which took place in the House of Commons on the motion of Mr. Shaw Lefevre relative to the questions between the United States and Great Britain which arose out of our recent civil war. It is pleasant to recognize the meliorated tone of parlimentary and public opinion in Great Britain on these grave subjects. We are ourselves not unmindful of the interests involved.

I have informally suggested to Mr. Thornton a course which I think would enable us to obtain an adjustment of those questions equally satisfactory and honorable to both countries. He is in telegraphic communication with her Majesty's government in the line of my suggestions. This dispatch will reach you too late to enable you to render us desired assistance. I will simply state, therefore, for your own information, the nature of the suggestions which, with the consent of the President, I have made to Mr. Thornton:

First. That we settle the naturalization question by a treaty substantially similar to the North German treaty.

Secondly. That we provide for adjusting the San Juan question by a liberal reference of it to the republic of Switzerland.

Third. The solemnization of the naturalization treaty to be followed by a sparing and prudent exercise of executive clemency in two or three cases in the spirit of the new treaty.

When all these things shall have been done, the existing irritation will be so far relieved that I think it beyond doubt that we can provide for adjusting the Alabama and other claims in a manner practically unexceptionable in either country.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Adams to Mr. Seward.*

No. 1558.] LEGATION OF THE UNITED STATES,
*London, March* 24, 1868.

SIR: I have to acknowledge the reception from the department of dispatch No. 2141 of the 7th of March.

Although it is not presumed that any action on my part on the subject matter of that dispatch was contemplated, I shall endeavor to seize an occasion to converse with Lord Stanley upon it. Possibly this may contribute to accelerate action on the other side.

I have reason to believe that the intention is entertained by the authorities here to release, without further trial, Colonel Nagle and the six other persons remaining in prison, who were connected with the expedition of the Jacmel.

Stephen J. Meany has likewise been discharged from the remainder of the penalty inflicted upon him by the sentence of the court which tried him, on condition of his leaving the kingdom. Under an impression that the proposal to appropriate $50,000 to defray the expenses of persons in captivity here, which was adopted by the House of Representa-

tives, had become a law, Mr. Meany called upon me to advance him two hundred dollars for the purpose of defraying his charges. The same impression prevails among the prisoners elsewhere. I was obliged in reply to apprise him that no information of the passage of such an appropriation had yet been received, and that no funds existed here from which to supply such a demand. It may be added that Mr. Meany has never yet furnished to this legation the necessary evidence to establish the fact of his naturalization.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, March* 25, 1868.

Inquire of Stanley and urge what Thornton recommends about naturalization treaty. Reply by telegraph.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, March* 26, 1868.

Agree to empower for negotiation, but want time to mature qualification.

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, March* 26, 1868.

Telegram received. Delay hazardous.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

*Mr. Adams to Mr. Seward.*

No. 1562.] LEGATION OF THE UNITED STATES,
*London, March* 28, 1868.

SIR: I have to acknowledge the reception of two telegrams of the 25th instant, relating to a proposal to negotiate with this government on the question of allegiance and expatriation. I was enabled to reply to the earlier one promptly, by reason of an accidental meeting with Lord Stanley the evening before, in the course of which he explained to me his views of that proposition. He said that he was ready to agree to make the Prussian project the basis of a negotiation; but the adoption of it as it stands was thought by the law officers of the Crown to involve such extensive possible effects upon the laws of inheritance and succession in this kingdom, as well as collateral questions of property, that it was not safe to proceed without full examination of the statutes, and a report. He thought that some qualifications might be necessary to be introduced to guard against confusion.

It was upon this conversation that I rested my telegram to you in reply. I have, however, asked for a special audience of his lordship next week, in order to press the subject upon him more earnestly.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1565.] LEGATION OF THE UNITED STATES,
*London, April* 1, 1868.

SIR: In accordance with the intention expressed in my dispatch No. 1562, of the 25th of March, I yesterday succeeded in obtaining an interview with Lord Stanley on the subject of the proposal to negotiate an expatriation. But his lordship did little more than confirm my report of his unofficial conversation the other day as it was given to you in that dispatch. The law officers of the Crown have been changed often since the accession of this ministry; so that these are yet new to their duties, and they have had much occupation in other subjects, so that I scarcely anticipate any very rapid response in a case like this, which must be admitted to be full of difficulties and embarrassments. Indeed Lord Stanley intimated that as the existing commission appointed to consider and report upon the state of international law was now ready to report and be discharged, it was not unlikely that some of the persons constituting it might be selected to form a new commission to report on this subject, also.

At the same time that Lord Stanley gave me this information he expressed his own disposition to co-operate in any plan to bring these questions to a settlement as soon as possible. Meanwhile the state of things in Ireland is becoming so much more settled that the few prisoners will probably be liberated without a trial. Lord Stanley told me that Colonel Nagle would be brought to trial at Dublin in the course of next month. I shall not be surprised if even that attempt should be abandoned, in case no further disturbances take place.

The debate now going on in the House of Commons on the disendow-

ment of the Irish established church and the evident favor which the proposal meets with, is now absorbing the attention of the Roman Catholic clergy, and inducing a disposition on their part to co-operate in the restoration of quiet in the disturbed district. It seems as if the cohesion of the ministry was already endangered by it. But the experience of the last year has made people wary of predicting anything from outside appearances.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2151.] DEPARTMENT OF STATE,
*Washington, April* 4, 1868.

SIR: I have received your dispatch of the 20th of March, No. 1556. The interesting account which you have given of demonstrations of personal respect and consideration which have been made on the occasion of your anticipated retirement by members of the British branch of the international league for peace, and many other British subjects, has been brought to the notice of the President, and they are regarded by him with very great satisfaction. It has seldom if ever before happened that the representative of one country has performed diplomatic services in another, through so long, so difficult, and so eventful a period, and with such success as to sensibly increase not merely the estimation in which the minister was previously held in both countries, but to increase also the popular feeling of good will in both nations.

I felicitate you upon this honorable termination of labors which have been equally loyal, discreet and toilsome.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, April* 6, 1868.

Will you authorize payment of prisoners' return home?

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, April* 6, 1868.

Telegraph estimate of expense of return of prisoners.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

*Mr. Adams to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, April 7, 1868.*

Not exceeding £60.

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, April 7, 1868.*

Send the prisoners home.

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Adams to Mr. Seward.*

No. 1568.] LEGATION OF THE UNITED STATES,
*London, April 8, 1868.*

SIR: In consequence of representations made to me by Mr. West, the consul at Dublin, to the effect that the authorities there had expressed a willingness to liberate several of the prisoners, citizens of the United States, held there subject to trial, provided they would quit the country, and that for want of means to pay their passage to the United States they were unable to comply with the terms, and hence must continue in confinement, I ventured upon addressing to you a telegram, on the 6th instant, desiring to know whether the government would assume the charge of sending them home. The same day I received a reply desiring me to report the amount of the probable cost of the undertaking. On the 7th I replied, setting the limit at £60. To this an answer came in a few hours directing me to assume the expense. I have therefore written to Mr. West, at Dublin, instructing him to take the necessary measures to attain the object.

I trust, therefore, that in a few days more I may be able to have the satisfaction to report to you that the prisons of Ireland are cleared of all citizens of the United States remaining under confinement without trial.

I have ventured to renew my application to Lord Stanley in behalf of John McClure, who was last year tried, who pleaded guilty, and was condemned to death. His punishment was, however, commuted to imprisonment for life. There were many circumstances in the young man's case that seem to me to entitle him to particular consideration. I am in hopes that the one year's penalty he has already endured will be regarded as sufficient to atone for any offense he may have committed, and that he will be relieved before I take my own departure.

The trial of Captain Burke, which has been expected to take place in this city before now, must soon come on. I shall endeavor to forward to you a report of the proceedings as soon as it appears.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1569.] LEGATION OF THE UNITED STATES,
*London, April* 8, 1868.

SIR: The telegraph now communicates the news of events which occur on this side with so much rapidity that it seems to supersede the necessity of doing more than to allude to them in my dispatches that lag behind.

The issue of the debate on the Irish church indicates that the opposition party has once more become consolidated. The only question left is, then, whether the ministry will yield at once, or try the experiment of a dissolution of Parliament. It is generally understood that the first will not be done. Resistance will be made as long as possible, and if the worst comes to the worst, an appeal will be made to the people on the issue of the church in danger. Inasmuch as all the preparatory measures necessary to carry into effect the law extending the franchise are not yet completed, it may happen that a dissolution will now interpose another House of Commons elected on the old basis, prior to the organization of the new system. So great will be the reluctance of members to incur the risk of a heavy double expense by this process, that I cannot help thinking the prime minister may succeed in holding over the present session after all. It is scarcely likely that his term can extend beyond that; for nothing seems more clearly written in the future than the ultimate overthrow of the established church in Ireland, whichever may be the issue of the immediate struggle.

The consequence may be some further delay in the negotiations between the two countries on the questions now open between them. A change of ministry will probably bring in persons even more friendly to us than the present one, but past experience teaches that the best opportunities for arriving at practical results are generally offered during a state of parties similar to that which now prevails. I fear that the prospect for reaching any immediate settlement is growing less and less promising.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2154.] DEPARTMENT OF STATE,
*Washington, April* 10, 1868.

SIR: Your dispatches numbered 1553 to 1560 have been received and are approved.

The delay of the British government on the naturalization question, to which reference is made in your No. 1558, is regretted.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Adams.*

No. 2156.] DEPARTMENT OF STATE,
*Washington, April* 13, 1868.

SIR: With a note of the 9th of November last, Mr. Ford, her Britannic Majesty's chargé d'affaires here, by order of his government, communicated to this department a copy of an instruction of Lord Stanley of the 22d of October to the British agent and consul general in Egypt, marked confidential, on the subject of certain reforms, which the viceroy of that country was said to be desirous of introducing into the Egyptian judicial system. This department has since consulted Mr. Hale, the agent and consul general of the United States at Alexandria, on the subject. Mr. Hale has made a full and luminous report in regard to it. His conclusions are, that in the first instance, at least, it would be preferable for foreign governments to limit their advice to that of Egypt, to the establishment by the latter, at once, and without further consultation with other governments, of a tribunal of five judges, two or three of whom should be able and learned Franks of unimpeachable integrity, with assured salaries for at least a term of years. The jurisdiction of this tribunal should be limited to suits brought by Franks against the Egyptian government, or its native subjects. That government may request the consulates to give the same assistance to the tribunal in requiring the attendance of witnesses and other incidental proceedings as is now bestowed in comity by one consulate upon another. When the decisions of the tribunal shall be in favor of the plaintiff, they should be promptly and fully carried into effect by the Egyptian government. Mr. Hale expresses an opinion that if this should be fairly done, the tribunal would at once become among Franks the most popular institution in Egypt. He further suggests that the same tribunal might also hear cases in which subjects of different nationalities were parties, whenever the parties should agree, in advance, to accept its jurisdiction. He also suggests that the Egyptian government request the Christian powers to instruct their consuls to give prompt and full execution to the decision of the tribunal against any of their respective subjects resident in Egypt, in those cases where the parties had accepted the jurisdiction before the case was heard.

It is desirable to know the views of her Majesty's government upon these recommendations and suggestions of Mr. Hale. To that end you are authorized to leave a copy of this instruction with her Majesty's principal secretary for foreign affairs.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c.*, *&c.*, *&c.*

*Mr. Adams to Mr. Seward.*

No. 1571.] LEGATION OF THE UNITED STATES,
*London, April* 14, 1868.

SIR: I have the honor to transmit, at the desire of the writer, a letter addressed to me by Colonel Nagle, at Dublin.

I have written to him in reply to apprise him that on my last visit to Lord Stanley, when I made a representation of his case, he informed me that it was the intention of the government to bring him to trial at Dublin at the next assizes. If they should fail to do so, my opinion is that he will then be liberated.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Nagle to Mr. Adams.*

MOUNTJOY PRISON,
*Dublin, April* 6, 1868.

SIR: I have been over ten months in close confinement deprived of every right belonging to a free man; suffering in body and mind—my health broken, my family injured, my social and business connections destroyed. I do not appeal to you, honorable sir, for the purpose of exciting your sympathy or to ask your influence to procure me any favor from my oppressors. But I address you as a free-born citizen of the United States suffering outrage and wrong from a foreign power which has failed to prove any just cause for its oppression of me, but continues to hold me in its prisons notwithstanding my repeated demands for freedom and the earnest request of the government of my country for my release, and in a vindictive, malicious spirit has conspired against my liberty and seeks to destroy my every hope in life.

Six months have elapsed since a charge of treason-felony was brought against me. A month ago I was for the second time indicted on the same charge, yet I remain a prisoner without trial.

I hope it may not be considered presumptuous in me or as evincing a spirit of impatience if I respectfully ask why, my character as an American citizen being acknowledged, if my right and liberty as such are entitled to any consideration; and if so, how long a foreign power may with impunity deprive me of all without any just cause.

I respectfully submit that my imprisonment has been thus prolonged by the premeditated action of the Crown authorities; that I was arrested without any warrant of law or evidence of any character against me, confined in prison and kept there until through conspiracy, intrigue, bribery and perjury some appearance of justification for the action against me might be produced and an attempt made to consign me to the slavery and horrors of a British convict prison.

The grand jury of Dublin county on their oaths declared I had committed treason in Dublin, yet I was not tried for it because it suited the purpose of the Crown better to gain time, and after an interval of five months take me to a remote part of Ireland, where another grand jury on their oaths declared me guilty of acts of treason in the county of Sligo.

The Crown authorities were well aware of the fact that a jury *de medietate* could not be found in Sligo before I was taken there. But the object (more time and my continued punishment) was gained. So these proceedings may continue until I am indicted in every county in Ireland, for no doubt juries can be found equally facile in every part of the country. In the mean time I may linger and die in prison unless the government of my country *demands* my release.

The expense incurred by my government in my defense is already large. I am deeply grateful, for had I not been so defended I would in all probability be now enduring the slavery of a British convict prison condemned by a mockery of justice for acts I never committed. But through the management of the Crown lawyers all this expenditure of money has been without avail or effect, and if brought to trial at some future time, I am defenseless unless my government deems it proper to incur further expense on my account. This is certainly a wrong to the government and a great hardship to me. If you have not received instructions to take further action on my behalf, I respectfully ask of you to forward this letter to the honorable Secretary at

Washington, with the hope that some decisive steps may be taken for my release before my health becomes so utterly ruined as to render the balance of my life miserable and liberty of no value or enjoyment to me.

I have the honor to remain, sir, your obedient servant,

WM. J. NAGLE.

Hon. C. F. ADAMS,
*United States Minister, London.*

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*Mr. Adams to Mr. Seward.*

No. 1575.] LEGATION OF THE UNITED STATES,
*London, April* 22, 1868.

SIR: By a report made to me from Mr. West, the consul at Dublin, I find that there remain imprisoned at Dublin at this moment only three persons known to be citizens of the United States. The remainder have been liberated on condition of returning to the United States. The expense of the return of such as could not defray it from their own means has been paid under authority given by your cable telegram of the 7th of April.

The newspapers have formally announced that Colonel Nagle has also been released. But I regret to learn from Lord Stanley that this is not true. I have reason to believe that he favors the thing, and that it will be ultimately accomplished. The matter is reduced to a condition which ought scarcely to be considered as an obstacle by the government.

I have the honor to be, sir, your obedient servant,

CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Adams.*

No. 2165.] DEPARTMENT OF STATE,
*Washington, April* 24, 1868.

SIR: Your dispatch of the 8th of April, No. 1569, has been received. Your observations concerning the political crisis of England are exceedingly interesting. It is very much to be regretted that her Majesty's ministers are unprepared to meet the naturalization question directly, and settle it in the practical way which I have proposed. Time is not likely to induce more liberal feelings in the United States than those which now prevail in this government. On the other hand, it would seem as if the political dispute concerning the Irish church, which is manifestly rising in Great Britain, could hardly be carried further without increasing the difficulty of satisfactorily adjusting the international question to which I have referred. I am quite convinced that all our international questions may be arranged speedily and satisfactorily, if the naturalization controversy can be adjusted.

You may use this dispatch in any manner which may seem expedient.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

*Mr. Adams to Mr. Seward.*

No. 1583.] LEGATION OF THE UNITED STATES,
*London, May* 2, 1868.

SIR: According to your desire, expressed in dispatch No. 2156, of the 13th of April, I called upon Lord Stanley on Wednesday last, read it to him and gave him a copy of it.

His lordship expressed great doubt whether anything was likely to come of the matter. There were differences of opinion among the powers not soon to be reconciled. Neither was he disposed to think the evils of the present system so serious as they had been represented. He intimated that France would wish to have her own way, which was not likely to be assented to by others. He would, however, give attentive consideration to the views of the dispatch.

Apart from this particular question, it seemed to me as if his lordship talked with less animation and interest than I ever knew him to do before. Whether this may be owing to the prospect of leaving his office before long I cannot say. Neither is it necessary to decide, as the vote of Thursday night in the House of Commons seems to render it certain that a change of some kind will be announced on Monday next. You will probably have heard what it is by the telegraph long before this reaches you by steamer, so that all speculation in which I might indulge would be clearly out of place.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1584.] LEGATION OF THE UNITED STATES,
*London, May* 2, 1868.

SIR: I have the honor to transmit to you the newspaper report of the trial of Richard OS. Burke, which has been just held in this town. Captain Burke, who seems to me to have conducted himself with extraordinary propriety throughout the period of his imprisonment, distinctly concedes the fairness of the trial, and the justice of the verdict according to the evidence. The only question he raises is that of citizenship, but even that relates rather to the form of trial, as, on the merits, even his being admitted to be an alien would not be held to shield him from the consequences of acts dangerous to the peace of the realm.

I believe there are now very few citizens of the United States remaining under confinement on the mere allegation of offenses committed. Offers have been made to release even these, but conditions have been attached, to which they very naturally refuse to subscribe. This is, I believe, the case with Colonel Nagle. I learn from Lord Stanley that it is the wish of the Irish authorities to liberate him unconditionally, but there are difficulties in the way which time may yet overcome. If not, it is clear that he must be brought to trial in a very few days.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[From the London Daily News, April 30, 1868.]

## THE TRIAL OF BURKE, CASEY, AND SHAW.

The prisoners Richard Burke, alias Edward C. Winslow, alias George Berry, alias Wallace, 35, no occupation; Joseph Theobald Casey, 23, clerk; and Henry Mullady, alias Shaw, 26; who were put upon their trial on the previous day for treason-felony, in having traitorously conspired with divers other persons to deprive her Majesty of the royal style and title of the imperial crown of Great Britain and Ireland, and to establish a republic in Ireland, were placed at the bar yesterday morning again, at 10 o'clock.

The attorney general, the solicitor general, Mr. Giffard, Q. C., Mr. Poland, and Mr. Archibald, were the counsel for the crown. Mr. Ernest Jones and Mr. Macdonald appeared for the prisoner Burke, Mr. F. H. Lewis for Casey, and Mr. Pater for Mullady. Mr. De Tracy Gould, a member of the American bar, was also retained professionally to watch the proceedings on behalf of Burke.

At the rising of the court on the previous evening a portion of the evidence for the prosecution was given, and the case on behalf of the crown was again proceeded with.

Amelia Tye, being examined by Mr. Giffard, Q. C., deposed: I lived at Mr. Kynock's house at Birmingham, and saw the prisoner Burke there. He first called there in December, 1865, and Mr. Kynock being absent from home I showed him some percussion caps which he wished to see. He approved of them, and said he would call on the following morning. He came next day and purchased a large quantity. In the afternoon he went out with Mr. Kynock, and in the evening he purchased 250,000 caps and 40 revolvers, which I put into a case. Burke ordered them to be sent to Mr. Mullady, 64 George street. They were delivered by Mr. Kynock's man, who brought back the book signed. I think the prisoner Shaw once brought a letter to Mr. Kynock, but I would not swear to his identity. I saw Burke at Mr. Kynock's several times. He was known by the name of Winslow.

In cross-examination by Mr. Pater, the witness said she did not know what had become of the letter which Mullady brought to Mr. Kynock.

George Kynock was then examined by the solicitor general. He said: I reside at Birmingham, and am a cap and ammunition manufacturer. I also sell fire-arms. I know Mr. Winslow (Burke) and Mullady, both of whom I have seen at my place of business. The first purchase Burke made from me was that of 2,000,000 percussion caps and 250,000 revolver caps. The amount of the purchase was £385, which he paid in cash. I made out an invoice, and gave it to him. I gave him a delivery order on the manager of the London and North Western Railway Company at Birmingham for the percussion caps, which were then lying at Curzon street station. Burke afterwards bought revolvers, and I went with him to Mr. Hill's, in St. Mary's road, where we inspected some pistols. I purchased pistols from Mr. Hill and other makers, and sold them to Burke. I made out seven or eight invoices of goods altogether, and to the best of my recollection the amount was £1,970. The payments were principally made in Bank of England notes. I gave credit for the invoice of the rifles. The amount of it was £698. I saw him every day, and was on very friendly terms with him. I went to his house in George street. There was a large plate on the door, on which the words "E. C. Winslow, merchant and commission agent," were engraved. I believe I saw Casey there. He appeared to be only a workman. I have seen Mullady at my office. I have occasionally received letters from Burke, and have seen him write. (Letters written by Burke to the witness were then read. In one of them he expressed a wish to be furnished with a list of prices of rifles, &c.)

Cross-examined by Mr. Jones: Burke and I had frequent conversations about his antecedents. I don't remember his saying that he had taken up his residence for some time in Chili.

Cross-examined by Mr. Lewis: I was examined at the police court on the 30th of December, and I then thought that Casey was the man who had passed under the name of Mullady. I also professed to have seen Mullady several times. I always had a doubt as to Casey's identity. I have now no doubt about Casey.

Cross-examined by Mr. Pater: Had I not seen Shaw I should have been under the impression that Casey was the man who waited for Burke's letter. When I saw Shaw at the police court, I recognized him, and found I had been mistaken with respect to Casey.

Wm. James Hill, a pistol maker, residing in St. Mary's road, Birmingham, corroborated that part of the evidence of the last witness relating to the purchase of pistols.

In cross-examination by Mr. Jones, he said he understood that the pistols were to be sent to Chili.

James Whitehead deposed to having seen the prisoner Casey at Burke's offices in George-street-parade.

Mr. Day, a house agent, residing in Birmingham, stated that Burke rented premises in George-street-parade, on the representation that he belonged to a mercantile firm in New York. He paid the first quarter's rent in advance. The third quarter the prisoner

suddenly left without giving notice. On regaining possession of the house witness found a carboy, from which there was the smell of petroleum. He also found a door which bore bullet and chalk marks, and appeared to have been used as a target.

In cross-examination by Mr. Jones, witness admitted having stated to the magistrate that he did not know whether the carboy was in the premises when Burke took possession of them.

Mr. Mansell, a member of the Birmingham detective force, produced a plate which he had taken off the door of Burke's offices and which bore the following: "Edwd. C. Winslow, Commission Agent and General Merchant." He further stated that in the cellar of the house he found several jars containing a liquid, the nature of which he did not know.

In reply to Mr. Ernest Jones, he said he believed the liquor was used in polishing the stocks of rifles.

The foreman of the "order shed" at Curzon street station, Birmingham, proved the delivery at that station of goods consigned by Mr. Kynock, of Birmingham, to "Edward C. Winslow, at Park-lane station, Liverpool, to await order."

The booker at Park-lane station, Liverpool, proved the delivery of twenty cases on December 29, 1865. The freight was made out from the order (produced.) The signature in the delivery book was "W. Laurence."

Mr. Kynock identified the order as being in Burke's handwriting.

William Emery, the checker at Curzon-street station, Birmingham, produced consignment notes which accompanied cases sent to the station. One of the notes did not bear the address of the sender, and he asked it from the man who brought the note. He identified Casey as being that man.

Mr. Kynock stated that the notes were in Burke's handwriting, and bore the signature, "E. C. Winslow." The witness, in continuation, deposed that the cases were forwarded to Park-lane station, Liverpool.

In answer to Mr. Lewis, he said that Casey was in his sight for about twenty minutes or half an hour on the day on which he brought the note. He had never seen him before. He did not think he should be much surprised to hear that, on the 29th of December, 1865, Casey was in the employ of the Messrs. Pickford. There were such strange things taking place now, that one might believe anything. (Laughter.)

The booker at Park-lane station was recalled, and proved the delivery of nine cases on the 30th of December, 1865.

Mr. Kynock stated that the note of consignment was in Burke's handwriting.

A clerk at the Curzon-street station, Birmingham, deposed to having received the consignment note (produced) with 12 cases in January, 1866. The cases were forwarded to Waterloo station, Liverpool. (This note was also proved to be in Burke's handwriting.)

A clerk in the Waterloo station, Liverpool, proved the delivery of the cases, adding that the signature in the delivery-book was "R. Laurence."

The consignment and delivery of other cases were proved by railway employés connected with the Birmingham and Liverpool railway stations.

Henry Fisher, who was employed as railway clerk at Birmingham in the early part of 1866, produced four consignment orders, which were delivered to him by the prisoner Shaw, who stood by while the packages to which they related were being weighed.

The court here adjourned for a short time.

Upon its reassembling,

Two females residing in Liverpool were examined, one of whom proved that the prisoner Burke lodged at her house under the name of Edward C. Winslow, and the other, that Burke visited two of her lodgers named Preston and Rice, in company with a Mr. Beecher.

Scafe, a member of the Liverpool police, deposed to finding in a house in Salisbury street, Liverpool, where Burke lodged, three tubs containing water and a large number of bottles. The bottles were taken to the police office, and witness subsequently took one of them to a doctor. On opening the bottle, a few drops of the fluid it contained fell on witness's clothes, and set them on fire.

William Hone, inspector of detective police at Liverpool, corroborated the evidence of the last witness.

Edward Davis, analyst and chemist, deposed that he examined some bottles which had been given him by the last witness, and found that they contained solution of phosphorus. That substance when dissolved by bisulphate of carbon produced what was known as "Greek fire."

Morrissy, a member of the Royal Irish Constabulary, stationed at Cork, deposed to having seized two deal cases which had been brought to that city by the steamer Halcyon. They were addressed to "J. Daly & Co., Grand Parade, Cork."

Thomas Hamilton, resident magistrate at Cork, stated that he had examined the cases referred to by the last witness, and found that they contained Enfield rifles, bayonets, and bullet molds. The rifle produced was one of those which he had taken from the cases.

The rifle was here shown to Mr. Kynock, who identified it as having been sold by him.

John Daly, a member of the firm of Daly & Co., Grand Parade, Cork, being examined, stated that he had not ordered two cases of rifles.

In reply to Baron Bramwell, the witness said he had never acted as agent for any person.

Thomas Kavanagh, a clerk in the employ of the agents of the Cork Steamship Company, at Liverpool, deposed to the shipment of the cases in question.

John Townsend, a member of the firm of Townsend & Cook, drapers, Byron street, Liverpool, was produced to show that they did not send cases of rifles to Daly & Co., Cork.

A servant at the house in Tavistock street, Tottenham court road, in which Burke and Massey lodged under the names of Wallace and Cleburne, was then sworn, and identified Burke.

Evidence having been given as to the finding of military haversacks in the Commercial hotel, Nelson street, Liverpool, in which Burke met several leading members of the Fenian movement who stopped there,

James Hollyman, rifle instructor of the South Cork militia, and John Daly, a color-sergeant in the same regiment, were produced, and identified Burke as having been attached to it in 1856.

Elizabeth Itheall deposed that her father kept the King's Head public house at Chester. She remembered a person who went by the name of Johnson lodging at her father's house in February, 1866. Their house was near Chester castle. She said that she afterwards saw this man Johnson on his trial at Dublin under the name of McCafferty.

William Bray, detective officer at Bray, proved that on the 11th of February a great number of strangers arrived at Chester by the trains from Manchester and Liverpool. Some of these persons stopped on the platform and others walked about the town in bodies. He said he should think that there were about 2,000 strangers in the city on this day. On the following morning he found several pistols and some powder and ball in a field near the railway. He could find no owners for these articles. There were 30,000 stand of arms in the castle at this time, and very few soldiers to protect them. Although the place was called the "castle," it was not possessed of any strength, and was used for courts of justice, and a portion of it was used as a prison.

John Clerk, another constable belonging to the Chester police, also spoke to a number of strangers coming to Chester on the day in question, and among them he recognized the prisoner Burke. The volunteers had been called out early in the morning, and the men who had come by the trains left on the same evening. On Friday, the 15th of February, he drew off the water from a stream at Chester, and found 160 ball cartridges.

Francis Sheridan: I am a sergeant in the Dublin constabulary, and on the night of the 5th March, 1867, I was on duty at the village of Milltown, about two and a half miles from Dublin. I was patrolling the village with three other constables, and at the railway arch at the end of Milltown we met a body of from 700 to 800 men. They were all armed, some with rifles and bayonets, and others with pikes and revolvers. They surrounded and disarmed us. We had revolvers and swords, and were in uniform. There was a person named Lennon, who seemed to have the command of them. They put a number of men round us, and we walked in the center. They proceeded, marching in regular order, towards Stepaside, and on reaching the barracks there they summoned the constables to surrender in the name of the Irish republic. The constables refused to surrender, and the insurgents then fired on them by direction of Lennon. They also got a sledge-hammer from the smith's forge, and broke open the door. They likewise broke the windows, and threw in stones, and set the barrack on fire, and threatened to burn the constables out. One of the insurgents said they were at a loss because they had not some Greek fire at the time. There were four or five policemen in the barrack, and they returned the insurgents' fire. When the doors were broken open they surrendered, and their arms were taken from them and distributed among several of the insurgents. Their accoutrements and uniforms were also taken. The insurgents next proceeded to Glencallan, and Lennon having ordered his riflemen to the front of the barrack there, he summoned the constables to surrender in the name of the Irish republic. The constables refused to surrender, and the insurgents then fired into the barracks, and the fire was returned from the inside. One man was shot beside me. After about a couple of hours' firing the insurgents placed us in front, and got behind us—(laughter)—but the firing did not cease. A letter was then sent to the sergeant of the police, offering us in exchange for their arms, and threatening that if this offer was not accepted, we should be kept in front of the fire. The arms were thereupon given up, and we were released, and the insurgents then marched away.

John Macilwain, another of the Irish constabulary, deposed that he remembered the rising of the 5th March, and a few days before this he saw the prisoner, who was afterwards tried as General Halpin, on a car in Dublin. He was in the barrack at the time it was attacked, and he corroborated the evidence given by the last witness as to what took place.

Jeremiah Coghlan, a constable stationed in Drogheda, proved that there was a general rising on the night in question in that neighborhood. It was very dark, but he considered the number of persons who assembled was between 700 and 1,000. Shots were fired, but not more than one or two.

Baron BRAMWELL. How many police were there in the neighborhood?

WITNESS. About 36.

Baron BRAMWELL. And this mob of 700 or 1,000 people fired two shots at you and then ran away? (A laugh.)

The witness said they did so.

Fitzpatrick, another constable, deposed that he apprehended the prisoner Shaw about 15 miles from Drogheda on the 7th of March, 1867, and he found in his possession a six-chamber revolver, loaded and capped. Another man named Dohany was with him, and he also had a revolver in his possession. They were committed for having arms in their possession in a proclaimed district, and Shaw had been in custody ever since.

Evidence was then given that one of the railway stations in the neighborhood was attacked, that a revolver was placed to the breast of a porter who was in charge, and that the telegraph instrument was destroyed. One of the men was called captain, and after they had finished he gave them the order to march on.

Mr. Richard Adams, head constable at Kilmarlock, in the county of Kerry, deposed that on the morning of the 6th of March there was an alarm given at the barrack, and they were informed that they were to be attacked by an armed body. They prepared themselves for the attack, and he looked out and saw an armed body of men in front of the barracks. They first attempted to set fire to the door of the barrack, and then they fired, and the police returned the fire immediately. There were only 15 constables in the barrack, and he believed the number of the mob was about 500. After a short time they all ran away, and threw away their arms as they were doing so. Some of the mob tried to get on the roof and pull off the slates, and they had a tar barrel with them to place in the building. The moment the insurgents returned, witness ordered the doors to be opened, and he and the other constables sallied out and beat off the mob, and proceeded to take several prisoners. They were armed with guns, pistols, pikes, and daggers, and they had a large quantity of ammunition with them, and also a quantity of blasting powder.

John Brown, another constable, who was stationed at Ballyknockan barrack, in the county of Cork, deposed that on th emorning of the 6th of March about 150 men marched up to the barrack in military array, and called upon him to surrender in the name of the Irish republic. Witness refused, and the mob fired, and he returned the fire. He asked them to let his daughter leave, and they refused at first, but afterwards permitted her to do so. At this time the barrack had been set on fire. Witness and three other men got out by the window, and they were immediately seized and disarmed, and the insurgents told them that this was the day for the general rising; that they had not attacked Cork yet, but meant to do so in the course of the week. The persons who were in command of this body of insurgents were General Mackey and Captain Burke, and they had both since been convicted and sentenced to penal servitude.

Thomas Reilly, a Dublin police constable, spoke to the apprehension of Captain M'Cafferty, after the affair at Chester, and to his subsequent conviction.

Patrick Mullany, the witness who had been examined as an approver in the case of the Clerkenwell explosion, was then called. He stated that he had been in the habit of attending Fenian meetings, and he had also seen the prisoner Burke at those meetings. He was also in the habit of calling at witness's house in July, 1867. He knew him first by the name of Winslow, and then by the name of Brown. He wanted a pair of trowsers and a waistcoat done, but witness told him that he could not do them, as that was the time of the tailors' strike. He saw him last two or three months before his apprehension.

John Joseph Corydon, recalled, said he had spoken of seeing Mullady at Mrs. Blackmore's in Liverpool. He was at one time intimately acquainted with two men named Preston and Rice. They were members of the Fenian Brotherhood, and during the summer of 1866 he had seen them at several Fenian meetings. There had been a talk of rising in Ireland several times since 1865, and the final arrangement was that it should take place immediately if the Chester affair had been successful.

After a few questions had been put in cross-examination by Mr. Ernest Jones, the solicitor general said that this closed the case for the prosecution, and

The court adjourned until 10 o'clock this morning.

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[From the London Daily News, May 1, 1868.]

## THE TRIAL OF BURKE, CASEY, AND SHAW.

The proceedings in connection with the trial of Burke, Casey, and Shaw were resumed yesterday morning at the central criminal court.

When Justice Keating and Baron Bramwell had taken their seats on the bench, the

latter, addressing the solicitor general, said, as the result of a consultation with his learned brother, he wished to ask whether the law officers of the Crown thought there was sufficient evidence against the prisoner Casey to press for a conviction?

The solicitor general replied that it had been proved that Casey, when at Birmingham, was found in close connection with Burke, then employed in procuring arms, and had also lived with him in London under circumstances from which it must be assumed that he was fully acquainted with Burke's designs and the way in which they were carried out.

After some conversation, in the course of which both the learned judges expressed a strong opinion as to the insufficiency of the evidence affecting Casey,

The solicitor general intimated his determination to withdraw the case against Casey, and the jury, under the direction of the bench, found a verdict of *not guilty*, the foreman remarking that the course adopted by the law officers of the Crown was one that he and his colleagues fully approved.

Mr. F. H. Lewis, who was counsel for Casey, said he had witnesses in attendance who were prepared to prove that his client was engaged at Messrs. Pickford's at the very time that he was stated to have been associated with Burke.

Baron Bramwell remarked that though it might be hard upon Mr. Lewis's client to be prevented from showing that he was innocent, all that could be now done was to act upon the verdict of the jury.

Casey was then discharged from custody.

Mr. Ernest Jones then addressed the jury in an eloquent speech on behalf of the prisoner Burke. After impressing on the jury the great importance of the case, he referred to the invisible letter of which Mullany spoke at the other trial, and argued that it was impossible for Burke to have secreted the necessary chemical ingredients about his person. He contended that Burke's resistance to apprehension was the resistance of an innocent man, and one which every innocent man would offer if he were refused to see the warrant which had been issued for his arrest. Apart from the testimony of the four informers, Mullany, Corydon, Massey, and Devaney, the only evidence was that Burke, under the name of Winslow, had bought arms of Mr. Kynock, and he (Mr. Jones) contended that it was not the part of the prisoner to show what he had done with the arms, but it was for the Crown to show that he bought them for the purposes which the prosecution alleged. Supposing he had been connected with some fillibustering or revolutionary expedition in South America, it would have been impossible for him to have brought over witnesses to prove the fact, as he was not a man who was rich himself, nor had he friends in a high station of life. If Burke had bought arms for one of the South American states, it would have been a breach of the neutrality law, and that would be an inducement for any man to change his name. Then one of the principal points in Burke's favor was that, notwithstanding the large quantity of arms which he purchased from Mr. Kynock, not one rifle nor revolver sent by him from Birmingham was found with the Irish insurgents. The Crown had laid particular stress upon the fact that Burke had been seen in company with Fenians in Liverpool, but they must not allow that part of the case to influence them unfavorably against the prisoner, for even if he had been aware of their designs, and knew everything about their movements, no criminality would attach to him. He cared not how suspicious were the circumstances which affected his client. The Crown were bound to convert them into absolute and undeniable proof before a verdict of guilty could be returned. The learned counsel then referred in satirical terms to the informers, and told the jury that the evidence of those individuals should be discarded altogether, as there had been no corroboration as to material fact, and the prisoner's position was therefore in no way injured by it. The man Lawrence, who was proved to have received the arms sent from Birmingham to Liverpool, had not been connected with the Fenian movement, and the only assumption to entertain concerning him was that he was the innocent servant of Burke, and not the agent of a conspiracy. Remarking upon the impartiality and the fairness which had been exhibited in the cases of the prisoners who were discharged from custody on Tuesday, and in that of Casey, who was acquitted this morning, he asked them to imitate the sense of justice thus shown by English judges and an English jury, and to show the Irish people that nothing but the spirit of fairness actuated Englishmen in dealing with offenses more or less connected with Ireland.

Mr. Pater then addressed the jury on behalf of Shaw. He dwelt upon the circumstance that the informers, Massey and Devaney, did not refer to his client. Corydon had sworn that he was present at the meetings of American officers in Liverpool, but there was not the slightest scintilla of corroborative evidence to warrant the jury in paying any attention to that allegation. With regard to the evidence which had been adduced to prove the identity of Shaw as having assisted Burke in Birmingham, he argued that Mr. Kynock's identification of Casey as being Shaw at the police court negatived the force of his testimony on the point at the present trial. Mr. Kynock stated that he knew Mullady by his red hair; but if that were the case, how was it that he had pointed at Casey, whose hair was black, as Mullady? The second witness who had been produced to identify Mullady was a man whose evidence was altogether unrelia-

ble, and whose antecedents rendered his story entirely unworthy of credence. Touching the Fenian rising near Dublin, counsel reminded the jury that his client had not been proved to have been there, nor yet at the attack upon the police barrack, referred to the previous day. Shaw was arrested in Ireland, having a loaded revolver at the time, but he had suffered 15 months' imprisonment for that offense, and the jury should not allow it to influence them in deciding upon the charges which were now brought against him. In conclusion, he again reminded them that the only evidence of a serious nature which had been given against his client was that of Corydon. He adjured them not to place reliance upon it, and hoped they would allow Shaw to return to his home, family, and occupation.

The court then adjourned for a short time.

Upon its reassembling, the solicitor general replied on behalf of the Crown. He told the jury to dismiss from their minds the suggestion of the counsel for the defence that a verdict of acquittal would be a message of peace for Ireland, and to consider the case upon its merits and form their conclusion upon the evidence which had been adduced. After referring to the contemplated attack on Chester Castle and the rising in Ireland as proof of the formidable character of the Fenian conspiracy, the solicitor general proceeded to deal with the testimony which had been given in support of the charge against the prisoners. He said it would be idle and futile to call accomplices if Mr. Jones's suggestion that the evidence of the informers should be entirely disregarded were carried out. The jury might consider such evidence with care and jealousy, and examine the motives which had induced either or all of the informers to come forward; but they should see whether it was not so far corroborated as to justify them in believing in its truth or improbability. It was not for him to justify the conduct of Corydon. They all knew he was a bad, wicked man, for whom they had the greatest contempt, but then they should remember that he was the instrument by which the objects of the conspiracy had been thwarted, and that he had assisted in crushing a scheme which would have spread death and bloodshed far and wide. Therefore, instead of being led away by the fact that Corydon was an informer, and a contemptible informer, they should compare his evidence with that of the other informers and with that of independent witnesses, and see whether it did not contain elements of truth. The character of Devaney, another informer, was little above Corydon's. Then they came to Massey, the third informer, and in referring to him he (the solicitor general) submitted his position and antecedents entitled him to some consideration at the hands of the jury. Up to the time of his arrest he was determined to fight for the Fenian cause in Ireland, and the circumstances under which he gave information to the government were such as to justify a belief in his credibility, and to indicate him as a man actuated by motives other than those which had induced his companions to give their services to the Crown. Adverting to Burke's acts in Birmingham, the solicitor general said they had the undeniable fact that under a false name he purchased arms and ammunition to the amount of £2,000, and sent them to Liverpool from time to time. Massey stated that Burke told him he had purchased arms for the Fenians, and corroboration of Massey's statement was to be found in a fact which he mentioned as having been communicated to him by Burke, and which was afterwards deposed to by Mr. Kynock, namely, that on one occasion Burke obtained credit to the extent of £900. Another circumstance which militated against the prisoner was that arms were sent from Liverpool to Cork under a false consignment, and that they were recognized by Mr. Kynock as being the same as those which he had sold to Burke. It had been suggested for the defence that Burke was the agent of a firm connected with Chili, but why had not evidence on the point been produced, or why had no account been given of the part played by the man Lawrence who received the arms in Liverpool? In concluding his remarks with regard to Burke he was obliged to say that he thought the case against him was unanswerable. Referring to Shaw's alleged participation in the Fenian movement, he called the attention of the jury to the statement made by Corydon, that Shaw attended meetings in Liverpool, and that he went to Mrs. Blackmore's house by the name of Mullady. Amelia Tye had told them she believed Shaw was the man who came to Mr. Kynock's with a letter from Burke, but she was not in a position to swear to him positively. If the evidence rested there it would be unsatisfactory, but then they found that Mr. Kynock came forward and positively identified Shaw as one of the men he had seen assisting Burke in Birmingham, and this evidence of identification had been corroborated by Fisher, the railway clerk, whose character counsel for the defense had needlessly assailed. Corydon deposed that at a meeting in the zoological gardens in Liverpool, Shaw was appointed to go to Ireland as one of the fighting men. Corydon's evidence required corroboration, and no more satisfactory corroboration could be given than the fact that Shaw and another man were arrested in Ireland, having loaded revolvers in their possession, and that they were subsequently imprisoned for carrying arms in a proclaimed district.

At 10 minutes to 4 Baron Bramwell commenced his summing up.

His lordship said that before he proceeded to call their attention to the evidence he would refer to the three complaints that had been made by the prisoners' counsel: first,

that the murder case had been taken before the present; that the prisoners had been committed to Warwick; and that Thompson, the officer, had arrested the prisoner, Burke, without a warrant; and he could not help expressing his opinion that neither of those complaints was at all justified by the facts. The learned judge then proceeded to explain that the offense with which the prisoners were charged was in point of fact treason; but, in accordance with a recent statute, the Crown were empowered to indict them for a lesser offense, which was called treason-felony. All that was necessary to be proved to support such a charge was that the accused parties had the design in their minds to dethrone the Queen in Ireland, and that they had done overt acts, such as the purchasing of arms with the object of carrying out that project. He was afraid there could not be the slightest doubt in the present case that a treasonable conspiracy, such as was suggested, really existed, and if the jury should be of that opinion, they would then have to consider whether the prisoners were proved to have been engaged in that conspiracy. It was argued on behalf of the prisoners that the informers who had been examined were unworthy of belief, and this was undoubtedly true to a certain extent, but it must be apparent that the two instances of the intended attack upon Chester Castle, and the rising that undoubtedly took place in the month of March, were most important corroborations of the evidence of the approvers. While upon this part of the case, he could not help expressing his admiration at the noble conduct of the Irish policemen and the gallant manner in which one of the police barracks was defended, and indeed the defense might almost be called a little Lucknow. The learned judge then proceeded to call the attention of the jury generally to the evidence that had been adduced for the prosecution, pointing out where it appeared to him the approvers were corroborated by independent testimony. He then proceeded to state that if the fire-arms had been really purchased by the prisoner, Burke, for some honest and legitimate purpose, nothing could have been easier than for the prisoner to have proved the fact. Having referred at considerable length to the evidence that affected the prisoner, he next proceeded to comment upon the evidence relating to the other prisoner, Mullady, and said that if he was not the person who was with Burke in Birmingham in 1866, and who assisted him in disposing of the arms that had been purchased, he might have produced witnesses to show where he really was at that time, and the absence of such evidence was an ingredient for them to consider when they came to decide upon the guilt or innocence of the prisoner. He next referred to the fact that Mullady was actually taken into custody while in company with a body of armed insurgents, who were endeavoring to make their escape after being repulsed by the police, and that at the time he had a six-chamber revolver, capped and loaded, in his possession. The learned judge concluded a most careful and impartial summing up by leaving the case in the hands of the jury.

The jury retired at 10 minutes past 5, and returned into court after a deliberation of 20 minutes with a verdict of *guilty* against both prisoners.

Mr. Avery, the clerk of the court, then put the usual question to the prisoners whether they had anything to say why judgment should not be passed upon them according to law.

BURKE, (in a drawling and affected tone.) I have a few brief remarks to make, if I am permitted to make them.

Baron BRAMWELL. You are entitled by law to state anything you think proper why judgment should not be passed upon you.

BURKE. Then, as a preliminary to the observations I have to make, I wish to say that since the period of my arrest, and since I have been confined in various prisons, at Bow street, the House of Detention, Newgate, Warwick jail, the King Street station-house, and other places, I have received from all the officials, from the governor down to the lowest warder, the most unvarying kindness, and I desire to record my gratitude to those gentlemen for such an extension of kindness towards me. I am not surprised by the verdict which the jury have arrived at, my lord, nor do I desire to impeach it. Under all the circumstances, and considering the evidence that was brought forward, I could see that 12 reasonable men could arrive at no other conclusion. But there are other points which, with your lordship's permission, I may touch upon without impeaching the verdict. I will not allude to the attorney general's conduct towards me during the past week, because he is not present, and I will, therefore, exercise more forbearance towards him than he used towards me; but I will briefly allude to some statements of the solicitor general in reference to my case. The learned gentleman, with his usual ability, has stated that it was not the desire of the prosecution to try my case under any shadow of prejudice; but if so, I would ask why did he not permit my case to be taken before that of the prisoners charged with causing the Clerkenwell explosion, although my attorney laid an affidavit before him, distinctly stating that my case would be bitterly prejudiced if the Clerkenwell case was brought on before mine. No prejudice! It has been most heinously prejudiced.

Baron BRAMWELL, (interruping.) You have no right to make the observations you are now making. What you are entitled to is to take an objection on any point of law.

BURKE. I am bound to defend my own character.

Baron BRAMWELL. You have no right to do that now.

BURKE. Will the law sanction it to be assailed without——

Baron BRAMWELL. You cannot do it now.

BURKE. Will you tell me when I may do so?

Baron BRAMWELL. It is not my duty to tell you.

BURKE. I will take your opinion on the matter.

Baron BRAMWELL (proceeding to pass sentence) said: I have informed myself what would be the proper punishment to pass upon you both, and I have done so without taking into consideration at all the other case.

BURKE. Pardon me, my lord, I understand you to consider that I have finished. I had concluded my remarks on that point, but I have something else to say.

Baron Bramwell repeated that he could only urge objections in law to judgment being pronounced upon him. He must accept the verdict of the jury as final.

Burke then said that at the commencement he was introduced as an alien, and his counsel proposed to put his passport in as evidence to prove that fact. He had produced that passport, and it had been accepted by the representatives of four or five European governments, but it had been objected to in this country, and the prosecution went on to prove that I was a native of Ireland. Did the gentlemen who came to prove that point establish their position? Two militiamen stated that his relatives lived at Macroom, but he could say that he knew nothing whatever of the locality, and he apprehended the statement they had made was a falsehood. They asserted what they knew was wrong.

Baron BRAMWELL. You are now doing what I told you not to do. I cannot allow you to contine the observations you are now making.

BURKE. Well, then, my lord, I will not touch on this matter. Accepting the position that the prosecution have placed me in, that of a subject of her Majesty—supposing I am really such, and supposing that I owe allegiance to her Majesty—that I entirely deny; I contradict that statement directly—but supposing that it is so in reality, I would still justify the position which the prosecution have placed me in, if your lordship will permit me. My position is a narrow one, and I have no knowledge of the law. It is not necessary for me to justify my conduct, to arraign all the many acts of outrage and wrongs——

Baron BRAMWELL, (interrupting.) I cannot permit you to do that. All I can permit you to do is to move an arrest of judgment by showing that the proceedings against you are invalid in point of law.

BURKE. Then I repeat my protest as a soldier of the United States.

Baron BRAMWELL. I will not allow you to make a protest. Have you done?

BURKE. No; I have not. I have no desire to act towards your lordship disrespectfully. I have towards your lordship and the jury every feeling of respect, but I must say that during the progress of this trial your lordship has been acting more as a prosecutor than a judge.

Baron BRAMWELL, (in a peremptory tone.) Silence! I cannot allow you to go on. I have borne with you long enough. I have made up my mind that no man who has been convicted by the lawful tribunals of the country should be afterwards permitted to assail those tribunals, and have apparently all the honors of the contest with him. I think many men have been tempted into commission of crime by the expectation that they would have an opportunity of making an exciting speech when called up for judgment, and I think it would be a salutary alteration of the law if men were made to feel that they would have to suffer the punishment of the law without being allowed to do so, and I have determined that that shall be the case with you. I say I have inquired what sentence should be passed upon you, and I find that in Ireland, where they have had more experience in these cases than we have in England, the sentence that would probably have been passed upon you for this offense would have been 15 years' penal servitude, and that sentence, with the concurrence of my learned brother, I now pass upon you. With regard to you, Mullady, who I consider, to some extent, the dupe of the other prisoner, the sentence upon you will be one of seven years' penal servitude.

MULLADY, (in an impudent tone.) But have not I a right to speak? I have not been called upon before you passed sentence.

Baron BRAMWELL. Very well, then I retract my sentence.

MULLADY. I knew before I came to England what sort of justice an Irishman had to expect.

Baron BRAMWELL. I will not allow you to go on in that way. The sentence upon you is that you be kept in penal servitude for seven years.

MULLADY. I can do that, and 20 years more, for Old Ireland.

The prisoners were then removed amid a scene of great excitement.

Mr. Giffard, Q. C., then made an application on behalf of the prosecution that the trial of the prisoner Patrick Mullany for treason-felony should be postponed to the next session.

The prisoner was brought up and informed of the application, when he stated that he was very ill, and he should like to have the matter disposed of one way or the other as soon as possible. He was told that the next session would be on Monday, and he then consented to the application, and the court adjourned till Monday next.

*Mr. Adams to Mr. Seward.*

No. 1587.] LEGATION OF THE UNITED STATES,
*London, May* 9, 1868.

SIR: I am happy to inform you that this government has at last adopted measures to arrive at the liberation of Colonel Nagle and the remainder of the persons connected with the expedition of the Jacmel. I learn from Mr. West that four of them, including Colonel Nagle, have departed to take the steamer at Queenstown, and the two others will doubtless follow in a few days. The expense of the return passage has been defrayed by Mr. West.

Thus I believe that this source of irritation is at last dried up.

Had it not been for the succession of events wholly extraneous but incidentally bearing upon the situation of these prisoners, I have no doubt they would have been released long ago.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Mr. Seward.*

No. 1590.] LEGATION OF THE UNITED STATES,
*London, May* 13, 1868.

SIR: I have just returned from Buckingham Palace, where the Queen granted me an audience at three o'clock for the purpose of receiving my letter of recall. I said only a few words, reminding her of the amicable assurances I had been instructed to give on my first arrival, and of their having been fully sustained in fact. I then recognized her own disposition to reciprocate the feeling, and alluded to one of the latest acts of conciliation in the life of the prince consort as being fully appreciated in America. With these evidences of good feeling I could confidently entertain the belief that the promise of the future would be fully as good as the performance of the past.

The Queen said a few words in the same sense, acknowledged that she had been touched by my allusion, and referred to my own performance of my duties here in a complimentary manner. I then took my leave.

I have the honor to be, sir, your obedient servant,
CHARLES FRANCIS ADAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

[Extract.]

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No. 33.] LEGATION OF THE UNITED STATES,
*London, May* 19, 1868.

SIR: On the 9th instant Mr. Adams addressed a note to Lord Stanley, her Majesty's principal secretary of state for foreign affairs, announcing his desire to deliver to the Queen at an early day the letter of recall forwarded to him at his own request by the President, and on the 11th

instant he received his lordship's reply. I now have the honor to inclose copies of these notes. The Queen granted the audience on the 13th at 3 p. m., and Mr. Adams accordingly took his leave of her Majesty at that time, as reported in his dispatch No. 1590 of that date.

I should be remiss in my duty both to him and myself if I were to permit this occasion to pass without giving expression to my sense of the courtesy I have experienced at the hands of Mr. Adams during the seven years it has been my fortune to serve under him, and of the sincere regret I feel at his retirement from a post he filled so ably and with so much credit to his government and himself. * * * *

I have the honor to be, sir, your very obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Adams to Lord Stanley.*

LEGATION OF THE UNITED STATES,
*London, May* 9, 1868.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to inform the right honorable Lord Stanley, her Majesty's principal secretary of state for foreign affairs, that he has been intrusted with the delivery of a letter addressed to her Majesty the Queen by the President of the United States, granting him the permission, which h · had solicited, to retire from the public service. In consequence thereof, the undersigned, in transmitting to his lordship a copy of that letter, would respectfully request that his lordship would be kind enough to procure for him the honor of an audience of her Majesty for the purpose of delivering the original and assuring her Majesty of the sincere desire which has animated the President to foster and extend the amicable intercourse subsisting between the two nations.

The undersigned has the honor to further acquaint Lord Stanley that he has been instructed to leave the archives of the mission in charge of Mr. Benjamin Moran, the secretary of legation, to whom, for the present, such communications as may be necessary can be addressed.

The undersigned, in closing the labors of a mission more arduous and extended than has fallen to the lot of any one of his predecessors at this court, would do violence to his feelings if he did not seize this last occasion to express his high sense of the courtesy and kindness he has uniformly experienced in his intercourse, as well with the two eminent noblemen who have, during his residence, successively preceded Lord Stanley as with his lordship himself.

The undersigned avails himself of this last opportunity to tender to Lord Stanley the assurances of his highest consideration and esteem.

CHARLES FRANCIS ADAMS.

The Right Honorable LORD STANLEY, *&c., &c., &c.*

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*Lord Stanley to Mr. Adams.*

FOREIGN OFFICE, *May* 11, 1868.

SIR: I have had the honor to receive your note of the 9th instant, in which you inclose copy of a letter from the President of the United States to the Queen, granting you permission to retire from the post of envoy extraordinary and minister plenipotentiary of the United States at her Majesty's court, and you request an audience of her Majesty for the purpose of delivering the original.

I shall not fail to take the Queen's pleasure with regard to granting you the audience which you solicit, and will hereafter have the honor of writing to you on that subject.

But in the mean time I cannot delay expressing to you my unfeigned regret at the approaching termination of your mission, and my high sense of the manner in which, in a time of peculiar difficulty and importance, you have fulfilled the arduous duties of your mission, proving the sincere desire of the President to maintain and improve the friendly relations which subsist between the two countries, a desire cordially reciprocated by her Majesty's government.

I shall be happy to communicate with Mr. Moran, after your departure, upon any matters relating to the affairs of the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

STANLEY.

CHARLES FRANCIS ADAMS, Esq., *&c., &c., &c.*

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*Mr. Moran to Mr. Seward.*

No. 35.] LEGATION OF THE UNITED STATES,
*London, May* 22, 1868.

SIR: I learn this morning from Mr. West, the consul at Dublin, that Mr. Denis O'Connor, the last imprisoned American citizen in Ireland known to him, has accepted his release. Mr. West has provided him with his passage to the United States at the expense of the government, and he expects to sail for home in the Tariffa on the 3d of June.

Thus ends the anxiety created by these troublesome cases. Mr. West has conducted the perplexing business connected with them, under Mr. Adams's directions, with marked patriotism, tact, and sound sense. He has had no easy task, but he has performed it well.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Moran.*

No. 5.] DEPARTMENT OF STATE,
*Washington, May* 27, 1868.

SIR: I learn from the cable that a commission of Lord Clarendon and others have been appointed to examine the British naturalization laws. Please sound the government again upon the question of their empowering Mr. Thornton to negotiate with us here on the principle of the North German treaty. Such a treaty would be very beneficial to the United States, and much more so to Great Britain. Had such a treaty been in existence, I think it would have avoided most of the trouble and difficulties which have arisen between the two governments during the last three years.

Answer by telegraph if the indications are favorable.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

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*Mr. Moran to Mr. Seward.*

No. 38.] LEGATION OF THE UNITED STATES,
*London, May* 29, 1868.

SIR: In view of the interest manifested in the United States in the present political situation in England, I venture to lay before you some observations upon it which I trust will not be unacceptable to the government. And allow me to say that I do not pretend to a superior

knowledge of the domestic politics of this country, but shall simply narrate facts as they stand. To begin, the political situation is by most English writers pronounced to be very unusual, a sudden subversion of all ordinary constitutional practice, quite abnormal. It will soon be seen in what its peculiar character consists; but it is not so strange or sudden as superficial observers fancy.

There is in power, no doubt, a conservative government, that is, a cabinet representing what is still called the tory party. It was for the want of consistency, however, in sustaining the doctrines of that party that Lord Carnarvon and Lord Cranborne felt that the ministry was not true to the party principles and they resigned. The plain truth is, however, that scarcely a veteran could be found now-a-days to abide by the old tory principles, the right divine of the royal authority, the duty of "keeping down" the people, protection and such doctrines; and there are many leading men among the conservatives who differ only in degree, if at all, from the liberals. Such men are Colonel Wilson Patten, Mr. Adderley, and Lord Stanley. The party is kept as one chiefly by the fact that its members have usually acted together. It possesses only a minority in the House of Commons, and got into power chiefly through a casual and temporary failure of unity among the liberals. The opportunity offering, it became urgently necessary to strike out a course that should render a tory government possible, if not actually popular, and Mr. Disraeli, who is by genius more of a *litterateur* than a statesman, struck out a policy which should reconcile the past of the party with its desired future, should reconcile tradition with progress, concession with something that looked like unity and should, above all, aid conservatism in competing with liberalism for popularity. He did invent his device. Mr. Gladstone had proposed a borough franchise based on a seven-pound rental. Mr. Disraeli proposed simply a household suffrage, with *no* limit, save that the registered elector should pay poor rates. Thus he offered a far more liberal extension of the franchise, and yet restored in spirit the ancient "scot and lot" system, the system under which that burgess should bear his "lot," or share, of the "scot," or money levied for the municipal uses of the place where he lived. The liberalism of the plan frightened many "consistent" tories like Lord Carnarvon, who is nevertheless a really liberal man. It delighted the bulk of the party as promising a final settlement of the franchise question.

The liberal party was weakened in various ways. Lord Palmerston had never impeded liberal measures, but had adroitly staved them off as much as possible. He was personally liked; his great age made opponents forbearing; and thus he kept down all strong party feeling. When Lord Palmerston died, the lead of the party naturally fell to the next most conspicuous member, William Ewart Gladstone, the friend and colleague of Peel. But many, especially among the whig section of the liberals, mistrusted his leaning to a liberalism too strong for them; low church, on the other hand, suspecting him—it is believed erroneously—of high church proclivities; and all rather charged him with an infirm temper—an idea which is more the result of his somewhat stern features and great earnestness than of real temper properly so called. The defection of liberals who thought him too forgiving helped his opponents, and he was thrown out on Lord Dunkellin's amendment, to base the franchise on rating instead of rental. But for general purposes the liberals still hold a majority; and thus the government passes its measures solely by leave and license of the opposition.

Such was the position of parties when Mr. Disraeli introduced his budget of measures for the reform of the electoral system, including

three bills to extend the franchise severally in England, Scotland, and Ireland, one to re-arrange the boundaries of parliamentary boroughs in England, and one to provide a more effectual check against bribery of electors. The English bill, as you know, is passed, notwithstanding the blunder, as some believe it, about *personal* rating, which disfranchised all "compound householders," or occupants of houses owned by a landlord who has "compounded" for the rates or taxes on them in the lump, at a heavy discount allowed by the parish, and who recharges the amount paid in the rental; the tenant thus being exempted from one form of irksome and inconvenient payment. The liberals opposed the change, but it was allowed to pass, and it stands for probable reconsideration in a future Parliament. The grand business remaining before Parliament is to complete the series of reform measures, so as to come into operation simultaneously with the English act in 1869; but the work has been hindered lately by a remarkable succession of ministerial crises.

The condition of Ireland, the outbreaks of Fenianism, the indifference rather than the active disloyalty of the majority among the population of the three Roman Catholic provinces had drawn serious attention to the "grievances" of the island; and among the grievances least justifiable, and least likely to be amended by the mere progress of improvement, was the existence of the established church in Ireland. It is vindicated as a "missionary church," preaching the true doctrine of the Anglican faith; but it is supported by a compulsory impost, levied in the shape of clerical tithes mainly from a Romanist population. It was to abolish that grievance by "disestablishing" the church—though with ample consideration for existing interests—that Mr. Gladstone introduced his three resolutions, asserting the principle, declaring that until further legislation no new appointments should be made, and inviting the Crown to place its "rights" at the disposal of Parliament. Ministers acknowledged the justice of extending religions equally in Ireland, but preached the policy of "levelling up" rather than "levelling down," with a hint at endowing other creeds besides the established Protestant faith. So spoke Lord Mayo, the secretary of state for Ireland, early in March last; although the idea of endowment has since been disavowed by himself and his colleagues, and it is believed they had not definitively made up their minds when they first alluded to the subject. On the 3d of April Mr. Gladstone carried his motion that the House of Commons should go into committee on his resolutions by a net majority of 60, and on the 30th he carried his first resolution, in committee, by the larger majority of 65. Here was a ministerial crisis; and according to usage, ministers ought either to have resigned, or to have appealed to the judgment of the constituencies by dissolving Parliament.

This is the crucial difficulty of the whole situation. The very circumstance that a general election must follow the completion of the reform measures, renders a dissolution now equally objectionable to popular feeling and to sound judgment. Two elections within so short a period would entail a vast expense on nearly every class in the country; the principal exceptions being publicans, election agents, and bribed electors, who would reap a double harvest. At the same time, the conservatives very wisely represented that the proper arbiters on the new and great question of the Irish church would be the new constituencies, and not those already doomed to be extinguished, or rather merged. Therefore, said the liberals to the ministers, you must not dissolve, but resign. On the contrary, the ministers rejoined, with perfect warrant from the usage and settled opinion of the country, that a cabinet—especially one which has come into office in presence of a Parliament elected under a

government of the opposite party—has a constitutional right to choose either of the two alternatives, resignation or dissolution. Moreover, those who began the unfinished work of reform should finish it; and therefore, argued the official party, let other questions stand over, leave us in peace to finish the reform measures, help us to acquit ourselves of the task quickly, and then we will dissolve as soon as you like; we will have the election in October or November if possible. In these views many of the soundest and most advanced liberals heartily concurred; but it is understood that Mr. Gladstone was advised by those immediately around him to persevere with his Irish bill. It was then resolved by the government to take the opinion of the house upon another subject, and if successful on that, to let the Irish question pass, not without resistance, but without making it a question on which the cabinet should stake its strength. The liberals exclaimed against the "unconstitutional" idea that a defeated government, convicted of having no majority in the representative chamber, could continue in office. But two influences imposed some check upon the more impatient liberals: the growing dissent of the most advanced and intelligent of their statesmen from a factious fight, and the fear of a dissolution, which probably would *not* have increased the liberal majority with the present constituency.

The measure chosen by the government for a trial of strength was the boundary bill, to which several boroughs took strong objections. The most obvious were, that the boundaries of the towns were often fixed arbitrarily, and not in accordance with the municipal boundaries; and that in some cases districts which would yield new liberal electors to vote in counties where they might contribute gains to the liberal cause, were arbitrarily annexed to towns where they were not wanted; some towns being actually star-shaped on the new outline of their parliamentary bounds. The committee on the bill stood for the 12th of May, but the result was that no trial of strength took place. The influence among the liberals heretofore pointed out, gathered force so much that quiet counsels prevailed, and the government, on its part, made a marked concession by agreeing that the objections advanced by the several boroughs should be referred to a select committee. All parties agreed. The committee was ultimately appointed, the cabinet naming the members with scrupulous fairness as between the parties, with Mr. Walpole, a member of the boundaries commission, to connect the two inquiries, and it has been getting through its work in a very satisfactory manner.

Thus all seemed smooth, when another ministerial crisis unexpectedly occurred in the committee of the whole house on the Scotch reform bill. Mr. Baxter moved and carried an amendment to provide the seven additional members which were to be conceded to Scotland by disfranchising all English boroughs under a population of 5,000, and the amendment was not only carried, but accepted by the government. Then Mr. Bouverie struck out a proviso in clause three, which placed the actual payment of rates among the essential qualifications of the voter. Poor-rates are a novelty in Scotland, the poor-law having been introduced so late as 1832, and not having yet been adopted by the whole country, though it is constantly extending, and Greenock is probably the sole electoral burgh still ignorant of poor-rates. Mr. Disraeli moved the adjournment of the debate till Monday, the 25th, and everybody understood that, whatever the Scotch members might say, he was resolved to abide by that principle of rating which he held to reconcile extended suffrage with respectability and therefore with conservatism.

The juncture found the position of parties in the main the same, and yet not without rather important differences. In the first place, speak-

ing quite generally, the Scotch members formed no insignificant section of those liberals who were for leaving the present government undisturbed in order to get this very bill, and yet now those gentlemen were opposed to the cabinet. On the other hand, the influence against undue pressure on the government had gained ground to an unexpected degree. The ministers had avowed that, saving the principle by which they had elected to take their stand, they were willing to consult the wishes of Scotch members and the local feeling and usage north of the Tweed, in a manner the most frank and practical. The week passed in quiet, informal council meeting on both sides, with still more quiet and informal negotiations between the two sides. The tories foresaw a more than probable liberal increase under the new constituency, but they desired—especially their leader did, and his colleagues stood by him—to finish their own work with eclat and to retire with dignity. And if some of the liberals were impatient of office, or others merely intolerant of a tory administration, under the lead of so inconsistent a strategist as Mr. Disraeli, the section of the party to which reference has more than once been made, representing as it did the old "Peelites," the late government, and the most independent thinking statesmen, had acquired the mastery.

Mr. Gladstone had introduced his Irish bill without opposition; the second reading stood for Friday, the 22d instant; and independently of the fact that the second reading is usually accepted as determining the judgment of the house on the principle of a measure, additional importance was attached to the proceedings this time, from a belief, not without some warrant, that Mr. Gladstone intended to exact a pledge from the government that it would actually undertake to accept his bill so far as to support it in the House of Lords. That the government would refuse everybody knew, and hence there seemed the possibility of a third of those ministerial crises which Mr. Bright had already declared "too much for his nerves." Mr. Gladstone, however, made no such unparliamentary demand; the opposition of the government—so necessary for consistency, and so essential to the position of ministers in the House of Lords, where the progress of the bill will no doubt be arrested—was quietly tolerated by the liberals; and the measure passed that telling stage by 54, a majority less than those which had carried forward the resolutions.

The incident was a favorable prelude to the meeting of Scotch members on the 23d, which terminated in a resolve to meet the government in a compromise, the Scotch members agreeing to disfranchise all who are exempted from poor-rates on the score of poverty, and the government, it was understood, agreeing to allow the franchise where there might be persons qualified, although there should be no poor-rates yet established in the town. The actual agreement on a middle term, however, necessarily stood for the evening of the adjourned debate in committee.

I have said that the position is not so anomalous as it looks—that is, "constitutionally." In point of fact all parties seem now to be agreed that it will be best to finish the reform measure, and to leave any appeal by way of dissolution to the new constituencies. Thus the tory government, the government without a majority, is not allowed to "remain in power," as the phrase is; it is simply permitted to finish a particular task in which all parties are engaged, which they all wish to get finished without hinderance, and which must be got out of the way before an appeal to the new constituencies—created in England, but yet to be finished off in Ireland and Scotland—can be possible. The peculiar in-

terruption in the progress of that necessarily complex and lengthened task occasions a situation wholly without precedent, but involving *no* political principle.

As before remarked, the question of the new Scotch constituencies may be regarded as practically settled. On Monday evening, the 25th instant, Mr. Baxter demanded for that kingdom the 10 members it is proposed to extract from the representation of England; but the government refused, and was sustained in this refusal by a majority of 39 votes in a tolerably large house. Last evening they obtained a still larger majority against Mr. Graham's amendment to divide Glasgow into three electoral districts. But they have yielded the promised seven, and thus succeeded in removing from serious controversy the Scotch part of their reform measures.

Next will come the Irish bill, but from present indications that will be carried in a form acceptable to both the ministry and the opposition. All, therefore, looks clear for an early closing session, it being now understood among members that the opposition have given up all present intention of displacing the ministry this year. They will, it is believed, go over to the new Parliament, indebted to the prime minister for securing by his tact a continuation of the leave and license of the opposition to finish the work in hand. The new elections will, in all probability, take place next spring, when will be made visible for the first time the constitution of the constituencies created by the reform measures passed in 1867 and 1868—measures characterized by Lord Derby, the prime minister under whom many of them were carried, as a "leap in the dark."

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 42.] LEGATION OF THE UNITED STATES,
*London, June* 3, 1868.

SIR: Several of the London newspapers of last Monday contained the substance of the report of the royal commissioners appointed in January, 1867, to inquire into the character and working of what is known here as the foreign enlistment act; and yesterday the report itself, and its accompanying papers appeared in the form of a blue book. I have the honor to transmit four copies herewith, as well as copies of several of the most influential London journals, with remarks upon the amendments proposed by the commissioners. That some of these will be adopted by Parliament when the act comes up for alteration is tolerably certain. Mr. Vernon Harcourt, as you will perceive, dissents from certain of the recommendations of his fellow commissioners and gives his reasons in a rather lengthy paper.

The memorandum by Mr. Abbott of the foreign office on the neutrality laws of the United States goes somewhat into detail, but I have not yet had time to give it a careful examination or to form an opinion of its merits.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

# REPORT OF THE NEUTRALITY LAWS COMMISSIONERS, TOGETHER WITH AN APPENDIX CONTAINING REPORTS FROM FOREIGN STATES AND OTHER DOCUMENTS.

[Presented to both houses of Parliament by command of her Majesty.]

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## COMMISSION.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, defender of the faith.

To our right trusty and well-beloved Councillor Robert Monsey Baron Cranworth; our right trusty and well-beloved Richard Monckton Baron Houghton; our right trusty and well-beloved Councillor Sir Hugh McCalmont Cairns, knight, a judge of the court of appeal in chancery; our right trusty and well-beloved Councillor Stephen Lushington, doctor of civil law, judge of the high court of admiralty; our right trusty and well-beloved Councillor Sir William Erle, knight; our trusty and well-beloved Sir George William Wilshere Bramwell, knight, one of the barons of the court of exchequer; our trusty and well-beloved Sir Robert Joseph Phillimore, knight, doctor of civil law; our advocate general; our trusty and well-beloved Sir Roundell Palmer, knight; our trusty and well-beloved Travers Twiss, doctor of civil law; our trusty and well-beloved William George Granville Venables Vernon Harcourt, esquire, one of our counsel learned in the law; our trusty and well-beloved Thomas Baring, esquire; our trusty and well-beloved William Henry Gregory, esquire, and our trusty and well-beloved William Edward Forster, esquire, greeting:

Whereas we have deemed it expedient that a commission should forthwith issue to inquire into and consider the character, working, and effect of the laws of this realm, available for the enforcement of neutrality during the existence of hostilities between other States with whom we are at peace; and to inquire and report whether any and what changes ought to be made in such laws for the purpose of giving to them increased efficiency and bringing them into full conformity with our international obligations:

Now know ye that we, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these presents authorize and appoint you the said Robert Monsey Baron Cranworth, Richard Monckton Baron Houghton, Sir Hugh McCalmont Cairns, Stephen Lushington, Sir William Erle, Sir George William Wilshere Bramwell, Sir Robert Joseph Phillimore, Sir Roundell Palmer, Travers Twiss, William George Granville Venables Vernon Harcourt, Thomas Baring, William Henry Gregory, and William Edward Forster, to be our commissioners for the purposes aforesaid.

And for the better effecting the purposes of this our commission, we do by these presents give and grant to you, or any five or more of you, full power and authority to call before you such persons as you shall judge likely to afford you any information upon the subject of this our commission, and also to call for, have access to, and examine all such books, documents, registers, and records as may afford the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And we do by these presents will and ordain that this our commission shall continue in full force and virtue, and that you our said commissioners, or any five or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And we do further ordain that you, or any five or more of you, may have liberty to report your proceedings under this commission from time to time, if you should judge it expedient so to do.

And our further will and pleasure is that you do, with as little delay as possible, report to us under your hands and seals, or under the hands and seals of any five or more of you, your opinion upon the several points herein submitted for your consideration.

And for your assistance in the due execution of this our commission, we have made choice of our trusty and well-beloved Francis Phipps Onslow, esquire, barrister-at-law, to be secretary to this our commission, and to attend you, whose services and assistance we require you to use from time to time as occasion may require.

Given at our court at St. James's the 30th day of January, 1867, in the 30th year of our reign.

By her Majesty's command.

S. H. WALPOLE.

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REPORT.

*To the Queen's most excellent Majesty:*

We, your Majesty's commissioners, appointed "to inquire into and consider the character, working, and effect of the laws of this realm available for the enforcement of neutrality during the existence of hostilities between other states with whom your Majesty is at peace, and to inquire and report whether any and what changes ought to be made in such laws for the purpose of giving to them increased efficiency and bringing them into full conformity with your Majesty's international obligations," have now to state to your Majesty that we have held twenty-four meetings, and having inquired into and considered the subject so referred to us, have agreed to the following report:

The statute now available for the enforcement of neutrality during the existence of hostilities between states with whom your Majesty is at peace is the 59 Geo. III, c. 69, commonly called the "foreign enlistment act." The title of that act is "An Act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes without his Majesty's license." And the preamble runs thus: "Whereas the enlistment or engagement of his Majesty's subjects to serve in war in foreign service without his Majesty's license, and the fitting out and equipping and arming of vessels by his Majesty's subjects without his Majesty's license for warlike operations in or against the dominions or territories of any foreign prince, state, potentate, or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province, or against the ships, goods, or merchandise of any foreign prince, state, potentate, or persons as aforesaid, or other subjects, may be prejudicial to and tend to endanger the peace and welfare of this kingdom; and whereas the laws in force are not sufficiently effectual for preventing the same."

This, then, being the statute directly available in this country for the enforcement of neutrality, our duty has been to inquire and report whether it is susceptible of any and what amendments, and we are of opinion that it might be made more efficient by the enactment of provisions founded upon the following resolutions:

I. That it is expedient to amend the foreign enlistment act by adding to its provisions a prohibition against the preparing or fitting out in any part of her Majesty's dominions of any naval or military expedition to proceed from thence against the territory or dominions of any foreign state with whom her Majesty shall not then be at war.

II. That the first paragraph of section seven of the foreign enlistment act should be amended to the following effect:

If any person shall within the limits of her Majesty's dominions—

(*a.*) Fit out, arm, dispatch, or cause to be dispatched, any ship with intent or knowledge that the same shall or will be employed in the military or naval service of any foreign power in any war then being waged by such power against the subjects or property of any foreign belligerent power with whom her Majesty shall not then be at war;

(*b.*) Or shall within her Majesty's dominions build or equip any ship with the intent that the same shall, after being fitted out and armed either within or beyond her Majesty's dominions, be employed as aforesaid;

(*c.*) Or shall commence or attempt to do, or shall aid in doing, any of the acts aforesaid, every person so offending shall be deemed guilty of a misdemeanor.

III. That in order to enable the executive government more effectually to restrain and prevent attempted offenses against section 7 of the foreign enlistment act, additional provisions to the following effect should be inserted in the statute:

(*a.*) That if a secretary of state shall be satisfied that there is a reasonable and

probable cause for believing that a ship which is within the limits of her Majesty's dominions has been or is being built, equipped, fitted out, or armed contrary to the enactment, and is about to be taken beyond the limits, or that the ship is about to be dispatched contrary to the enactment, such secretary of state shall have power to issue a warrant stating that there is such a reasonable and probable cause for believing as above aforesaid, and upon such warrant the commissioners of customs or any other person or persons named in the warrant shall have power to arrest and search such ship, and to detain the same until it shall be either condemned or released by process of law, or in manner hereinafter mentioned.

(*b.*) That the power hereinbefore given to a secretary of state may, in parts of her Majesty's dominions beyond the seas, be exercised by the governor or other person having chief authority.

(*c.*) That power be given to the owner of the ship or his agent to apply to the court of admiralty of the place where the ship is detained, or, if there be no such court there, to the nearest court of admiralty for its release.

(*d.*) That the court shall put the matter of such detention in course of trial between the applicant and the Crown, with usual admiralty appeal to the privy council.

(*e.*) That if the owner shall establish to the satisfaction of the court that the ship was not and is not being built, equipped, fitted out, or armed, or intended to be dispatched, contrary to the enactment, the ship shall be released and restored.

(*f.*) That if the owner shall fail to establish to the satisfaction of the court that the ship was not, and is not being, built, equipped, fitted out, or armed, or intended to be dispatched, contrary to the enactment, then the ship shall be detained till released by order of the secretary of state; nevertheless the court may, if it shall think fit, order its release, provided the owner shall give security to the satisfaction of the court that the ship shall not be employed contrary to the enactment, and provided that no proceedings are pending for its condemnation.

(*g.*) That if the court shall be of opinion that there was not reasonable and probable cause for the detention, and if no such cause shall appear in the course of the proceedings, the court shall have power to declare that the owner ought to be indemnified by the payment of costs and damages, which in that case shall be payable out of any moneys legally applicable by the commissioners of the treasury for that purpose.

(*h.*) That any warrant of the secretary of state shall be laid before Parliament.

(*i.*) That the proceedings herein provided shall not affect the power of the Crown to proceed if it thinks fit to condemnation of the ship.

(*k.*) That the following exceptions be made from this resolution:

1. Any foreign commissioned ship.

2. Any foreign non-commissioned ship dispatched from this country after having come within it under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character shall have taken place in this country.

IV. That it is expedient to make the act of hiring, engaging, or procuring any person within her Majesty's dominions to go on board any ship, or to embark from any part of her Majesty's dominions, by means of false representations as to the service in which such persons are intended to be employed, with intent on the part of the person so hiring, engaging, or procuring as aforesaid, that the persons so hired, engaged, or procured as aforesaid shall be employed in any land or sea service prohibited by section 2 of the foreign enlistment act, a misdemeanor, punishable like other misdemeanors under the same section.

V. That the forms of pleading in informations and indictments under the foreign enlistment act should be simplified.

VI. That if, during the continuance of any war in which her Majesty shall be neutral, any prize not being entitled to recognition as a commissioned ship of war shall be brought within the jurisdiction of the Crown by any person acting on behalf of or under the authority of any belligerent government, which prize shall have been captured by any vessel fitted out during the same war for the service of such government, whether as a public or a private vessel of war, in violation of the laws for the protection of the neutrality of this realm, or if any such prize shall be brought within the jurisdiction as aforesaid by any subject of the Crown, or of such belligerent government, having come into possession of such prize with notice of the unlawful fitting out of the capturing vessel, such prize should upon due proof in the admiralty courts at the suit of the original owner of such prize or his agent, or of any person authorized in that behalf by the government of the state to which such owner belongs, be restored.

VII. That in time of war no vessel employed in the military or naval service of any belligerent which shall have been built, equipped, fitted out, armed, or dispatched contrary to the enactment, should be admitted into any port of her Majesty's dominions.

In making the foregoing recommendations we have not felt ourselves bound to consider whether we were exceeding what could actually be required by international law, but we are of opinion that if those recommendations should be adopted, the municipal law of this realm available for the enforcement of neutrality will derive in-

creased efficiency, and will, so far as we can see, have been brought into full conformity with your Majesty's international obligations.

We have thought it better to present our recommendations in the form of general resolutions laying down the principles on which legislation should be framed rather than to attempt to draw up in detail the precise form of the statute.

We have subjoined, in an appendix to this report, certain papers relating to the laws of foreign countries on this subject, which have been communicated to us by your Majesty's secretary of state for foreign affairs, together with a short historical memorandum prepared by Mr. Abbott* for our information, and some other documents illustrative of the subject.

All which we submit to your Majesty's gracious consideration.

CRANWORTH. [L. S.]
HOUGHTON. [L. S.]
CAIRNS. [L. S.]
W. ERLE. [L. S.]
G. W. W. BRAMWELL. [L. S.]
R. J. PHILLIMORE. [L. S.]
ROUNDELL PALMER. [L. S.]
T. TWISS. [L. S.]
W. VERNON HARCOURT. [L. S.]
T. BARING. [L. S.]
W. H. GREGORY. [L. S.]
W. E. FORSTER. [L. S.]

Dr. Lushington did not sign the report, as he was, from indisposition, unable to attend the meetings after June, 1867.

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*Reasons given by Mr. Vernon Harcourt for dissenting from certain portions of the report.*

Though the undersigned has signed the report, he wishes it to be understood that he has only signed it subject to the following observations:

In the main part of the recommendations of the report I entirely concur, more especially in those which have for their object to increase the efficiency of the power of the executive government to restrain attempted violations of the neutrality of the country.

The portions of the report with respect to the policy of which I entertain considerable doubt are those parts of resolution II., § b, and resolution III., § a, the first of which extends the punitive power of the law, and the second the preventive authority of the executive, to the *building* of ships, apart from the question of their arming or dispatch from the realm.

My apprehension is lest such an extension of the law should unnecessarily—and if unnecessarily then unwisely—interfere with the shipbuilding trade of the country. It is needless to enlarge on the capital importance of that trade. As a commercial question it is one of the greatest consequence. It is perhaps, the trade in which alone Great Britain still retains an unrivaled superiority. Everything which tends unnecessarily to hamper or embarrass it must be regarded with suspicion and adopted with caution. It is not of course argued that the interests of a trade, however valuable, should not yield to considerations of imperial necessity, and of international obligation, if there be such an obligation. But this particular branch of trade has a special national value which belongs to hardly any other. Upon it depend in no small degree those naval resources which constitute the main defense of the realm. I believe it is the fact that at the present moment by far the greater proportion of the existing iron-clad navy of Great Britain has been constructed in the yards of private shipbuilders. These private yards have been created and are maintained at no expense to the nation by the custom of foreign states. Most of the powers of Europe rely for their naval construction on the private yards of English shipbuilders. In this respect, therefore, apart from the commercial question, the nature of this trade involves public consequences of the utmost political importance. The monopoly of the construction of the iron-clad navies of the world has become a new and gigantic arm of our maritime superiority. England has become, and is daily still more becoming, the naval dockyard of Europe. One effect of discouraging this trade must be either that foreign powers will construct for themselves, or else that some other nation whose restrictions are less rigid and whose trade is more free shall construct for them. Either alternative will deprive Great Britain of a great and special national advantage, which she now enjoys owing to her manufacturing skill and her peculiar resources in coal and iron. If Eng-

* Mr. C. S. A. Abbott, of the Foreign Office, was attached to the commission and in attendance at the meetings.

land should unhappily be engaged in an European war, we should lose the incalculable benefit of the control we now possess over the naval reserves of Europe. All these reservoirs of naval construction which the demands of foreign governments at present support in this country, can now in case of need be diverted from the foreign supply and be made immediately available for our own defense. If this trade is discouraged and possibly destroyed, the consequences are obvious. Foreign governments must build for themselves the vessels we now build for them. They will, therefore, be independent of this country in a manner which they now are not. Or they will build elsewhere, and the country to which they resort will then acquire the advantage we shall lose. This will be the first result. But the indirect effect on our own resources will be equally serious. At present, in time of peace, we are able to limit ourselves to comparatively moderate, though still enormously expensive, public establishments, because we know that in time of war the private yards will supplement our resources to an almost unlimited extent. But, if this private trade should cease or be seriously diminished, we must keep up constantly in time of peace such establishments as will be adequate to our utmost wants in time of war. The whole reserve of constructing power which we now possess in the private yards must be supplied by the public establishments. And consequently all that expenditure in plant, machinery, and the maintenance of skilled workmen, which is now defrayed by the custom of the foreigner in the private yards, must in future be permanently sustained out of the public taxation. Few people conversant with the subject will dispute that if the yards which now manufacture iron-clads for the world were abolished, the navy estimates must be largely increased in order to establish and keep on foot equal means of construction in the public dock-yards. We have a dozen private yards in the country which could in a limited time turn out vessels as powerful as any in the English navy, and which have in fact constructed many of the best ships we possess. Relying on this reserve of producing power we are able to economize our resources and to diminish our stock. But if these establishments cease we must always be prepared to supply their place at a far greater cost to the country. It is also deserving of consideration that the competition of these private yards among one another and with the government dock-yards, keeps up probably a higher standard of excellence than could be obtained by mere official supervision.

It will, therefore, be seen that the question is by no means one of the interest of private ship-builders, but does in fact involve a great question of national resource and public economy.

It is worthy of remark that when in the year 1817 the Congress of the United States were called upon to alter and amend their foreign enlistment act, the bill as reported by the Committee on Foreign Affairs in the House of Representatives bore the following title:

"A bill *to prevent citizens of the United States from selling vessels of war to the citizens or subjects of any foreign power*, and more effectually to prevent the arming and equipping vessels of war in the ports of the United States, intended to be used against nations in amity with the United States."

By the first section, "if any citizen of the United States * * * shall fit out and arm * * * any private ship or vessel of war, to sell the said vessel or *contract for the sale* of said vessel, *to be delivered in the United States or elsewhere to the purchaser*, with intent * * * to cruise or commit hostilities upon the subjects * * * of any prince or state with whom the United States are at peace, such person shall be punished" with fine and imprisonment, &c.

This bill was much discussed in the Senate, and in the end the first section above quoted was struck out, and the title of the statute altered accordingly. (These facts are stated on authority of a letter of Mr. Bemis of Boston, published in 1866.) The legislature of the United States have thus, it will be seen, deliberately declined to interfere with the commerce of that country in vessels of war. It may be worthy of consideration, having regard to these facts, whether the result of the proposed interference with the ship-building trade of England may not be to transfer to America the whole of the custom of foreign states.

But it will be argued that if the equipping, arming, and despatching of such vessels is to be prohibited, it is necessary on the principle *obsta principiis* to extend the prohibition to the earlier stages of the transaction. That reasoning does not carry conviction to my mind; the arming, equipping, and despatching are conspicuous acts directly and obviously connected with the belligerent intent. To build is nothing unless the vessel be armed and dispatched; it is in these acts that the real breach of neutrality consists. The law should lay its hand on the immediate offense, and not be astute to search out its remote sources and springs. To attempt to do so involves consequences which will be politically difficult and dangerous.

The great advantage of the summary and extensive preventive powers which the present report recommends should be conferred on the executive to stay the dispatch of vessels which may compromise our neutrality, is that they supply a reason which might justify us in mitigating the strictness of the penal code rather than an argument for augmenting its rigor. The notorious indisposition of juries to enforce such penal-

ties creates a mischief which should be avoided. We may sustain the great inconvenience of making laws which we shall find it practically impossible to execute, because they exceed in severity the standard of public opinion. The present report recommends the creation of an absolute, and I conceive a sufficient power to stop all vessels which ought to be stopped. The case of the Birkenhead rams, stopped by Earl Russell, is an instance of the exercise of the sort of power which it is the object of these recommendations to make more effectual and easy. As soon as reasonable grounds of suspicion arise, the power will be put in force. But assuming the vessel to be stopped, if there remains behind a statute which makes the original building penal, how are we to justify not proceeding to prosecute the builders after the vessel is stopped? If such a prosecution is not instituted the law is brought into contempt; if it is instituted the law will probably break down—results in either case to be greatly deprecated. When juries are called upon to inflict on their own countrymen, on behalf of foreigners, severe penalties for acts which are not punished but are held lawful in all other countries, is it not more than probable that popular sentiment will correct the severity of the law?

It must be remembered that in adding the word "building" to the penal part of the act we are distinctly creating a *new crime*. We are making our own subjects liable to criminal penalties for acts which are clearly lawful by the law of nations, which are lawful by the law and practice of all nations, and which have hitherto been lawful by the law and practice of our own people. We shall have not only to enact a new crime which does not exist, but to create an opinion and conscience of criminality which it is more difficult to inspire.

The authors of the English foreign enlistment act distinctly declined to carry back the offense to a period of the transaction which in no way partook of an offensive character and had no obvious or necessary connection with an attitude of war. The American government equally, after mature consideration, refused to adopt the alteration now proposed. They did so, upon principles of policy, by departing from which we may involve ourselves in inextricable difficulties, and probably not command on the part of other nations any corresponding reciprocity. It may be urged that whilst it is proposed to confer these extended powers, a large discretion is left to the government to determine how far they shall be put in operation. But as a fact, this discretion will be more nominal than real, and with the view of precluding international complaints, it will be absolutely null. Whatever power is conferred, in effect creates an obligation on the part of the government to put it in force, and a responsibility on the part of the nation if any neglect to enforce it should occur. If the government are authorized to interfere by prosecution and seizure at all stages of the building, then, at the first suggestion of any belligerent power they will be compelled, almost without discretion, to interfere, because, should they decline to do so, their responsibility and that of the nation will be involved, even by an error of judgment, in a case where the obligation is admitted. Thus we shall be made liable for acts for which at present no nation would hold us responsible. The reason why it has been considered inexpedient and impossible to enforce a prohibition of the exportation of munitions of war from the neutral territory is because to do so would involve a system of repression and *espionage* on the part of the neutral government which would be wholly intolerable to the trade of its subjects. If the thing is forbidden it is the duty of the neutral government to see that the prohibition is in fact enforced. But in order to enforce it we must establish on every occasion of war in foreign countries a sort of belligerent excise in the bosom of our own people. And this is precisely the evil in which we shall involve ourselves by undertaking to prohibit "building" with an unlawful intent. If we create and assume this duty we are bound to execute it, and in order to execute it we must ascertain at our own peril the intent and the future destination of every keel laid in the United Kingdom and even in our most distant possessions. If this is done honestly and efficiently it will place the whole ship-building trade under a supervision of a most odious and oppressive description, which would hardly be endured even for the security of our own interests, and certainly will not be tolerated for the advantage of foreign states.

There are those who reconcile themselves to such a course by supposing that in fact this new crime would never practically be prosecuted in its early stage. If so, then to what purpose is it created? But in fact if it is made a crime the neutral government must proceed against it in its earliest inception at the risk of being held responsible for what may happen in its further progress. There is an immense difference in this respect between the offense of arming and fitting out, which, especially in modern warfare, is a fact sufficiently obvious and patent, and may be easily detected in time to prevent the dispatch of the vessel. But if all building with a certain intent is to be constituted a crime which it is part of the duty of the government to repress, then there is not a keel laid, a bolt driven, or plank sawn in any yard in the country which may not at every instant be exposing the nation to a responsibility hitherto unknown.

The objections which forcibly strike me are these:

(1.) We shall create a new duty which it will be difficult and probably impossible to execute.

(2.) In creating such a duty we shall incur a new responsibility by its non-execution.
(3.) The attempt to execute it will be odious to our own subjects, and the failure to execute it will be a just ground of complaint to foreign states.
(4.) We shall be placing the trade of our own country at an uncalled for disadvantage as compared with that of the rest of the world.

Either the creation of this new offense will or will not tend to embarrass and injure the ship-building trade of the country. If it will not, as some believe, it would be satisfactory that this should be clearly established. I confess if I were satisfied of this, my objections to the course proposed would be in a great measure removed. But if, as I believe, the necessity of a perpetual official supervision and interference would greatly hamper, and probably ultimately destroy, this branch of our commerce, that again is a point on which I think the nation has a right to expect that we should afford them the means of forming a sound judgment. It may be that for adequate objects we should be willing to sacrifice such a trade. But it is well that we should estimate the amount of the sacrifice, being as it is wholly gratuitous and without example in the case of other nations. I regret that the commission have not taken evidence to show how far the proposed prohibition would in fact affect this particular trade and the general naval resources of the country. I venture to think that before any legislation on this matter is attempted, such an inquiry should be instituted. If the preventive powers of detention recommended in the report are (as I believe) sufficient for all practical purposes and the performance of all legitimate duties, every argument of policy would dissuade us from carrying the law any further.

I entirely share the desire to make abundant provision that the duties of neutrality should be honestly, fully, and effectually carried out. But in creating new duties, which do not at present exist, either in principle, precedent, or practice, it is worth while to consider whether by exaggerating the obligations of neutrality we are not creating a discouragement to its practice. We may end by making the duties of neutrality so irksome and intolerable, that on a mere calculation of expediency a prudent government would prefer to go to war. And thus we may defeat the end we have in view by the means we adopt to attain it.

There is one condition of things for which it seems especially necessary to make provision. A contract may be made by a foreign government for the building in this country of an iron-clad in time of peace and without any contemplation of present war. Such vessels require many months for completion and their cost is enormous. The foreign government may have paid several hundred thousand pounds by instalments during the construction of the vessel, and the property in the incomplete vessel will have passed to the foreign government. What is to be done to such a vessel in case the contracting government is involved subsequently in war? Is the vessel to be forfeited and the builder to be prosecuted because he proceeds with a contract which was perfectly lawful when it was made? If so, what chance is there for the future that any foreign government will ever build in England, or indeed that any English builder will venture to undertake their contracts? This singular state of things might easily arise. The recent war between Austria and Prussia lasted less than two months; a vessel might have been contracted for by one of those governments with an English shipbuilder; the vessel might have been half finished before the war, and wholly completed after the war. In respect of the work done before the war and after the war, *i. e.* for the beginning and ending of the ship, the ship-builder would be innocent; but in respect of the work done during the few weeks of the war, *i. e.* for the middle of the ship, he would be guilty of a misdemeanor and subject to fine and imprisonment. This may seem an extreme illustration, but it shows the necessity of providing some protection for contracts *bonâ fide* made and commenced in time of peace, unless it is intended wholly to prohibit the trade.

There is one other matter which I should gladly have seen embodied in the recommendations of the report. A strong feeling has recently grown up against the recognition of belligerent commissions granted to vessels on the high seas, by which such vessels become at once raised to the position of lawful belligerent cruisers, though they start from no belligerent port, and, in fact, derive no support from the natural and legitimate naval resources of those on whose behalf they wage war. It seems to me that for all reasons it is wise to discourage such a practice. As there is no rule of international law which forbids such delivering of commissions on the high seas, we cannot of course refuse to recognize the title of such a cruiser to all the legitimate rights of war in places beyond our jurisdiction. But we are masters of our own actions and our own hospitality within the realm. Though, therefore, we cannot dispute the validity of such a commission on the high seas, or the legality of captures made by such a vessel, we may refuse to admit into our ports any vessel which has not received its commission in a port of its own country. By so doing we should be acting strictly within the principles of the law of nations, and our example would very probably be followed by other maritime states, and thus in the end tend to repress the practice altogether. For this purpose I should have been very glad if the commission had thought fit to recommend that in time of war no armed vessel engaged in hostilities should

be admitted into any of our ports which should not hold a commission delivered to it in some port of military or naval equipment actually in the occupation of the government by which she is commissioned.

W. V. HARCOURT.

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APPENDIX No. I.

## BRITISH FOREIGN ENLISTMENT ACT.

(59 George III, Cap. 69, July 3, 1819.)

CAP. LXIX.—An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license.

Whereas the enlistment or engagement of his Majesty's subjects to serve in war in foreign service, without his Majesty's license, and the fitting out and equipping and arming of vessels by his Majesty's subjects, without his Majesty's license, for warlike operations in or against the dominions or territories of any foreign prince, state, potentate, or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province, or against the ships, goods, or merchandise of any foreign prince, state, potentate, or persons as aforesaid, or their subjects, may be prejudicial to and tend to endanger the peace and welfare of this kingdom; and whereas the laws in force are not sufficiently effectual for preventing the same: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords, spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act, an act passed in the ninth year of the reign of his late Majesty King George the Second, intituled "An act to prevent the listing his Majesty's subjects to serve as soldiers without his Majesty's license;" and also an act passed in the twenty-ninth year of the reign of his said late Majesty King George the Second, intituled "An act to prevent his Majesty's subjects from serving as officers under the French King, and for better enforcing an act passed in the ninth year of his present Majesty's reign to prevent the enlisting his Majesty's subjects to serve as soldiers without his Majesty's license; and for obliging such of his Majesty's subjects as shall accept commissions in the Scotch brigade in the service of the States-general of the United Provinces to take the oaths of allegiance and abjuration," and also an act passed in Ireland in the eleventh year of the reign of his said late Majesty King George the Second, intituled "An act for the more effectual preventing the enlisting of his Majesty's subjects to serve as soldiers in foreign service without his Majesty's license;" and also an act passed in Ireland in the nineteenth year of the reign of his said late Majesty King George the Second, intituled "An act for the more effectual preventing his Majesty's subjects from entering into foreign service, and for publishing an act of the seventh year of King William the Third, intituled 'An act to prevent foreign education,'" and all and every the clauses and provisions in the said several acts contained, shall be and the same are hereby repealed.

II. And be it further declared and enacted, that if any natural-born subject of his Majesty, his heirs and successors, without the leave or license of his Majesty, his heirs or successors, for that purpose first had and obtained under the sign-manual of his Majesty, his heirs or successors, or signified by order in council, or by proclamation of his Majesty, his heirs or successors, shall take or accept, or shall agree to take or accept, any military commission, or shall otherwise enter into the military service as a commissioned or non-commissioned officer, or shall enlist or enter himself to enlist, or shall agree to enlist or to enter himself to serve as a soldier, or to be employed or shall serve in any warlike or military operation in the service of or for or under or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or soldier, or in any other military capacity; or if any natural-born subject of his Majesty shall, without such leave or license as aforesaid, accept, or agree to take or accept, any commission, warrant, or appointment as an officer, or shall enlist or enter himself, or shall agree to enlist or enter himself to serve as a sailor or marine, or to be employed or engaged, or shall serve in and on board any ship or vessel of war, or in and on board of any ship or vessel used or fitted out, or equipped, or intended to be used for any warlike purpose, in the service of or for or under or in aid of any foreign power, prince, state, potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people; or if any natural-born subject of his Majesty shall, without such leave and license as aforesaid, engage, contract, or agree to go, or shall go to any foreign state, country, colony, province, or

part of any province, or to any place beyond the seas, with an intent or in order to enlist or enter himself to serve or with intent to serve in any warlike or military operation whatever, whether by land or by sea, in the service of or for or under or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or in the service of or for or under or in aid of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people, either as an officer or a soldier, or in any other military capacity, or as an officer or sailor, or marine, in any such ship or vessel as aforesaid, although no enlisting money or pay or reward shall have been or shall be in any or either of the cases aforesaid actually paid to or received by him, or by any person to or for his use or benefit; or if any person whatever, within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere, or in any country, colony, settlement, island, or place belonging to or subject to his Majesty, shall hire, retain, engage, or procure or shall attempt or endeavor to hire, retain, engage, or procure any person or persons whatever to enlist, or to enter or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid, as an officer, soldier, sailor, or marine, either in land or sea service, for or under and in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or for or under or in aid of any person or persons exercising or assuming to exercise any powers of government as aforesaid, or to go or to agree to go or embark from any part of his Majesty's dominions, for the purpose or with intent to be so enlisted, entered, engaged, or employed as aforesaid, whether any enlisting money, pay, or reward shall have been or shall be actually given or received or not; in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor, and upon being convicted thereof, upon any information or indictment, shall be punishable by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

III. Provided always, and be it enacted, that nothing in this act contained shall extend or be construed to extend to render any person or persons liable to any punishment or penalty under this act, who at any time before the first day of August, 1819, within any part of the United Kingdom, or of the islands of Jersey, Guernsey, Alderney, or Sark, or at any time before the first day of November, 1819, in any part or place out of the United Kingdom, or of the said islands, shall have taken or accepted, or agreed to take or accept any military commission, or shall have otherwise enlisted into any military service as a commissioned or non-commissioned officer, or shall have enlisted, or entered himself to enlist, or shall have agreed to enlist or to enter himself to serve as a soldier, or shall have served, or having so served, shall, after the said first day of August, 1819, continue to serve in any warlike or military operation, either as an officer or soldier, or in any other military capacity, or shall have accepted, or agreed to take or accept any commission, warrant, or appointment as an officer, or shall have enlisted or entered himself to serve, or shall have served, or having so served, shall continue to serve as a sailor or marine, or shall have been employed or engaged, or shall have served, or having so served, shall, after the said first day of August, continue to serve in and on board of any ship or vessel of war, used or fitted out, or equipped or intended for any warlike purpose; or shall have engaged, or contracted or agreed to go, or shall have gone to, or having so gone to, shall, after the said first day of August, continue in any foreign state, country, colony, province, or part of a province, or to or in any place beyond the seas, unless such person or persons shall embark at or proceed from some port or place within the United Kingdom, or the islands of Jersey, Guernsey, Alderney, or Sark, with intent to serve as an officer, soldier, sailor, or marine, contrary to the provisions of this act, after the said first day of August, or shall embark or proceed from some port or place out of the United Kingdom, or the islands of Jersey, Guernsey, Alderney, or Sark, with such intent as aforesaid, after the said first day of November, or who shall, before the passing of this act, and within the said United Kingdom, or the said islands, on or before the first day of November, 1819, in any port or place out of the said United Kingdom, or the said islands, have hired, retained, engaged, or procured, or attempted or endeavored to hire, retain, engage, or procure any person or persons whatever to enlist or to enter, or to engage to enlist or to serve, or be employed in any such service or employment as aforesaid as an officer, soldier, sailor, or marine, either in land or sea service, or to go, or agree to go or embark for the purpose or with the intent to be so enlisted, entered, or engaged, or employed contrary to the prohibitions respectively in this act contained, anything in this act contained to the contrary in anywise notwithstanding; but that all and every such person and persons shall be in such state and condition, and no other, and shall be liable to such fines, penalties, forfeitures, and disabilities, and none other, as such person or persons was or were liable and subject to before the passing of this act, and as such person or persons would have been in, and been liable and subject to, in case this act and the said recited acts by this act repealed had not been passed or made.

IV. And be it further enacted, that it shall and may be lawful for any justice of the peace residing at or near to any port or place within the United Kingdom of Great Britain and Ireland, where any offense made punishable by this act as a misdemeanor shall be committed, on information on oath of any such offense, to issue his warrant

for the apprehension of the offender, and to cause him to be brought before such justice, or any justice of the peace; and it shall be lawful for the justice of the peace before whom such offender shall be brought, to examine into the nature of the offense upon oath, and to commit such person to jail, there to remain until delivered by due course of law, unless such offender shall give bail, to the satisfaction of the said justice, to appear and answer to any information or indictment to be preferred against him, according to law, for the said offense; and that all such offenses which shall be committed within that part of the United Kingdom called England, shall and may be proceeded and tried in his Majesty's Court of King's Bench at Westminster, and the venue in such case laid at Westminster, or at the assizes or session of oyer and terminer and jail delivery, or at any quarter or general sessions of the peace in and for the county or place where such offense was committed; and that all such offenses which shall be committed within that part of the United Kingdom called Ireland, shall and may be prosecuted in his Majesty's Court of King's Bench at Dublin, and the venue be laid at Dublin, or at any assizes or session of oyer and terminer and jail delivery, or at any quarter or general sessions of the peace in and for the county or place where such offense was committed; and all such offenses as shall be committed in Scotland shall and may be prosecuted in the court of justiciary in Scotland, or any other court competent to try criminal offenses committed within the county, shire, or stewartry within which such offense was committed; and where any offense made punishable by this act as a misdemeanor shall be committed out of the said United Kingdom, it shall be lawful for any justice of the peace residing near to the port or place where such offense shall be committed, on information on oath of any such offense, to issue his warrant for the apprehension of the offender, and to cause him to be brought before such justice, or any other justice of the peace for such place; and it shall be lawful for the justice of the peace before whom such offender shall be brought, to examine into the nature of the offense upon oath, and to commit such person to jail, there to remain till delivered by due course of law, or otherwise to hold such offender to bail to answer for such offense in the superior court, competent to try and having jurisdiction to try criminal offenses committed in such port or place; and all such offenses committed at any place out of the said United Kingdom shall and may be prosecuted and tried in any superior court of his Majesty's dominions competent to try and having jurisdiction to try criminal offenses committed at the place where such offense shall be committed.

V. And be it further enacted, that in case any ship or vessel, in any port or place within his Majesty's dominions, shall have on board any such person or persons who shall have been enlisted or entered to serve, or shall have engaged, or agreed, or been procured to enlist, or enter, or serve, or who shall be departing from his Majesty's dominions for the purpose and with the intent of enlisting or entering to serve, or to be employed, or of serving or being engaged or employed in the service of any foreign prince, state, or potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign colony, province, or part of any province or people, either as an officer, soldier, sailor, or marine, contrary to the provisions of this act, it shall be lawful for any of the principal officers of his Majesty's customs where any such officer of the customs shall be, and in any part of his Majesty's dominions in which there are no officers of his Majesty's customs, for any governor, or persons having the chief civil command, upon information on oath given before them respectively, which oath they are hereby respectively authorized and empowered to administer, that such person or persons as aforesaid is or are on board such ship or vessel, to detain and prevent any such shid or vessel, or to cause such ship or vessel to be detained and prevented from proceeding to sea on her voyage with such persons as aforesaid on board: Provided, nevertheless, that no principal officer, governor, or person shall act as aforesaid upon such information upon oath as aforesaid unless the party so informing shall not only have deposed in such information that the person or persons on board such ship or vessel hath or have been enlisted or entered to serve, or hath or have engaged, or agreed, or been procured to enlist, or enter, or serve, or is or are departing as aforesaid for the purpose and with the intent of enlisting, or entering to serve, or to be employed, or of serving, or being engaged or employed in such service as aforesaid, but shall also have set forth in such information, upon oath, the facts or circumstances upon which he forms his knowledge or belief, enabling him to give such information upon oath; and that all and every person and persons convicted of willfully false swearing in any such information upon oath, shall be deemed guilty of and suffer the penalties on persons convicted of willful and corrupt perjury.

VI. And be it further enacted, that if any master, or other person having or taking the charge or command of any ship or vessel, in any part of the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions beyond the seas, shall knowingly and willingly take on board, or if such master or other person having the command of any such ship or vessel, or any owner or owners of any such ship or vessel, shall knowingly engage to take on board any person or persons who shall have been enlisted or entered to serve, or shall have engaged, or agreed, or been procured to

enlist, or enter, or serve, or who shall be departing from his Majesty's dominions for the purpose and with the intent of enlisting or entering to serve, or to be employed, or of serving, or being engaged or employed in any naval or military service, contrary to the provisions of this act, such master, or owner, or other person as aforesaid shall forfeit and pay the sum of fifty pounds for each and every such person so taken or engaged to be taken on board; and, moreover, every such ship or vessel so having on board, conveying, carrying, or transporting any such person or persons, shall and may be seized and detained by the collector, comptroller, surveyor, or other officer of the customs, until such penalty or penalties shall be satisfied and paid, or until such master or person, or the owner or owners of such ship or vessel, shall give good and sufficient bail, by recognizance before one of his Majesty's justices of the peace, for the payment of such penalty or penalties.

VII. And be it further enacted, that if any person, within any part of the United Kingdom, or in any part of his Majesty's dominions beyond the seas, shall, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, fit out, or arm, or procure to be equipped, furnished, fitted out, or armed, or shall knowingly aid, assist, or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel with intent or in order that such ship or vessel shall be employed in the service of any foreign prince, state, or potentate, or of any foreign colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise any powers of government in or over any foreign state, colony, province, or part of any province or people, as a transport or store ship, or with intent to cruise or commit hostilities against any prince, state, or potentate, or against the subjects or citizens of any prince, state, or potentate, or against the persons exercising or assuming to exercise the powers of government in any colony, province, or part of any province or country, or against the inhabitants of any foreign colony, province, or part of any province or country, with whom his Majesty shall not then be at war; or shall, within the United Kingdom, or any of his Majesty's dominions, or in any settlement, colony, territory, island, or place belonging or subject to his Majesty, issue or deliver any commission for any ship or vessel, to the intent that such ship or vessel shall be employed as aforesaid, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court in which such offender shall be convicted; and every such ship or vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of any such ship or vessel, shall be forfeited; and it shall be lawful for any officer of his Majesty's customs or excise, or any officer of his Majesty's navy, who is by law empowered to make seizures for any forfeiture incurred under any of the laws of customs or excise, or the laws of trade and navigation, to seize such ships and vessels as aforesaid, and in such places and in such manner in which the officers of his Majesty's customs or excise and the officers of his Majesty's navy are empowered respectively to make seizures under the laws of customs and excise, or under the laws of trade and navigation; and that every such ship and vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of such ship or vessel, may be prosecuted and condemned in the like manner and in such courts as ships or vessels may be prosecuted and condemned, for any breach of the laws made for the protection of the revenues of customs and excise, or of the laws of trade and navigation.

VIII. And be it further enacted, that if any person in any part of the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions beyond the seas, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, shall, by adding to the number of the guns of such vessel, or by changing those on board for other guns, or by the addition of any equipment for war, increase or augment, or procure to be increased or augmented, or shall be knowingly concerned in increasing or augmenting the warlike force of any ship or vessel of war, or cruiser, or other armed vessel which at the time of her arrival in any part of the United Kingdom or any of his Majesty's dominions, was a ship of war, cruiser, or armed vessel in the service of any foreign prince, state, or potentate, or of any person or persons exercising or assuming to exercise any powers of government in or over any colony, province, or part of any province or people belonging to the subjects of any such prince, state, or potentate, or to the inhabitants of any colony, province, or part of any province or country under the control of any person or persons so exercising or assuming to exercise the powers of government, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon being convicted thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

IX. And be it further enacted, that offenses made punishable by the provisions of this act, committed out of the United Kingdom, may be prosecuted and tried in his

Majesty's Court of King's Bench at Westminster, and the venue in such case laid at Westminster, in the county of Middlesex.

X. And be it further enacted, that any penalty or forfeiture inflicted by this act may be prosecuted, sued for, and recovered, by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at Westminster or Dublin, or in the Court of Exchequer, or in the Court of Session in Scotland, in the name of his Majesty's attorney general for England or Ireland, or his Majesty's advocate for Scotland, respectively, or in the name of any person or persons whatsoever; wherein no essoign, protection, privilege, wager of law, nor more than one imparlance shall be allowed; and in every action or suit the person against whom judgment shall be given for any penalty or forfeiture under this act shall pay double costs of suit; and every such action or suit shall and may be brought at any time within twelve months after the offense committed, and not afterwards; and one moiety of every penalty to be recovered by virtue of this act shall go and be applied to his Majesty, his heirs or successors, and the other moiety to the use of such person or persons as shall first sue for the same, after deducting the charges of prosecution from the whole.

XI. And be it further enacted, that if any action or suit shall be commenced, either in Great Britain or elsewhere, against any person or persons for anything done in pursuance of this act, all rules and regulations, privileges and protections, as to maintaining or defending any suit or action, and pleading therein, or any costs thereon, in relation to any acts, matters, or things done, or that may be done by any officer of customs or excise, or by any officer of his Majesty's navy under any act of Parliament in force on or immediately before the passing of this act, for the protection of the revenues of customs and excise, or prevention of smuggling, shall apply and be in full force in any such action or suit as shall be brought for anything done in pursuance of this act, in as full and ample a manner to all intents and purposes as if the same privileges and protections were repeated and re-enacted in this act.

XII. Provided always, and be it further enacted, that nothing in this act contained shall extend, or be construed to extend, to subject to any penalty any person who shall enter into the military service of any prince, state, or potentate in Asia, with leave or license, signified in the usual manner, from the governor-general in council, or vice-president in council, of Fort William in Bengal, or in conformity with any orders or regulations issued or sanctioned by such governor-general or vice-president in council.

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## APPENDIX NO. II.

## UNITED STATES FOREIGN ENLISTMENT ACT.

### (Fifteenth Congress. Sess. 1, ch. 8, April 20, 1818.)

CHAP. LXXXVIII.—An act in addition to the "Act for the punishment of certain crimes against the United States," and to repeal the acts therein mentioned.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, state, colony, district, or people, in war, by land or by sea, against any prince, state, colony, district or people, with whom the United States are at peace, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than two thousand dollars, and shall be imprisoned not exceeding three years.

SEC. 2. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years: *Provided*, That this act shall not be construed to extend to any subject or citizen of any foreign prince, state, colony, district, or people, who shall transiently be within the United States, and shall on board of any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States, was fitted and equipped as such, enter and enlist himself, or hire or retain another subject or citizen of the same foreign prince, state, colony, district, or people, who is transiently within the United States, to enlist or enter himself to serve such foreign prince, state, colony, district, or people, on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people.

* "An act for the punishment of certain crimes against the United States," April 30, 1790, ch. 9. Act of March 3, 1817, ch. 58.

SEC. 3. *And be it further enacted*, That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming, of any ship or vessel with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores, which may have been procured for the building and equipment thereof, shall be forfeited: one-half to the use of the informer, and the other half to the use of the United States.

SEC. 4. *And be it further enacted*, That if any citizen or citizens of the United States shall, without the limits thereof, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out, or arming, any private ship or vessel of war, or privateer, with intent that such ship or vessel shall be employed to cruise, or commit hostilities, upon the citizens of the United States, or their property, or shall take the command of, or enter on board of any such ship or vessel, for the intent aforesaid, or shall purchase any interest in any such ship or vessel, with a view to share in the profits thereof, such persons so offending shall be deemed guilty of a high misdemeanor, and fined not more than ten thousand dollars, and imprisoned not more than ten years; and the trial for such offense, if committed within the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought.

SEC. 5. *And be it further enacted*, That if any persons shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by the addition thereto of any equipment solely applicable to war, every person so offending shall be deemed guilty of a high misdemeanor, shall be fined not more than one thousand dollars, and be imprisoned not more than one year.

SEC. 6. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and be imprisoned not more than one year.

SEC. 7. *And be it further enacted*, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

SEC. 8. *And be it further enacted*, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, in every case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign ship or vessel to depart the United States in all cases in which, by the law of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 10. *And be it further enacted*, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property, of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby respectively, authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign state, or of any colony, district, or people, with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act.

SEC. 12. *And be it further enacted*, That the act passed on the fifth day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act for the punishment of certain crimes against the United States," continued in force, for a limited time, by the act of the second of March, one thousand seven hundred and ninety-seven, and perpetuated by the act passed on the twenty-fourth of April, one thousand eight hundred, and the act passed on the fourteenth day of June, one thousand seven hundred and ninety-seven, entitled "An act to prevent citizens of the United States from privateering against nations in amity with, or against the citizens of, the United States," and the act passed the third day of March, one thousand eight hundred and seventeen, entitled "An act more effectually to preserve the neutral relations of the United States," be, and the same are hereby severally repealed: *Provided nevertheless*, That persons having heretofore offended against any of the acts aforesaid may be prosecuted, convicted, and punished as if the same were not repealed; and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal.

SEC. 13. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason, or any piracy defined by the laws of the United States.

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## APPENDIX No. III.

## MEMORANDUM BY MR. ABBOTT.

### THE FOREIGN ENLISTMENT ACT.

### (59 Geo. III, c. 69, July 3, 1819.)

The foreign enlistment acts of Great Britain and the United States, the circumstances under which they were passed, as well as the principles of neutrality involved in them, are so similar that a consideration of the British must necessarily be prefaced by an account of the history of the American act.*

### THE UNITED STATES FOREIGN ENLISTMENT ACT.

When, after the execution of Louis the XVIth, the French national convention declared war, on the first of February, 1793, against England and Holland, one of their first acts was to appoint a representative to proceed to the United States to solicit the support of the sister republic, and to reclaim the privileges to which they considered France to be entitled under the two treaties of the 6th of February, 1778.†

The first of those treaties was a treaty of friendship and commerce, and contained the following articles:

[Translation.]

Martens: "Recueil des Traités," tom. 1, p. 145.

"ARTICLE XVII. It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please, the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested

* Fifteenth Congress, sess. 1, chap. 8, April 20, 1818.
† Signed by Benjamin Franklin.

or seized when they come to and enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather or the danger of the sea, all proper means shall be rigorously used, that they go out and retire from thence as soon as possible.

"ARTICLE XXII. It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States who have commissions from any other prince or state in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or state from which they have commissions."

The other treaty, styled "Traité d'Alliance Eventuelle et Défensive," provided (Article XI) for the mutual guarantee of the French and United States possessions in North America.

[Translation.]

"The whole as their possessions shall be fixed and assured to the said states at the moment of the cessation of their present war with England;" and, (Article 12,) "In order to fix more precisely the sense and application of the preceding article, the contracting parties declare, that in case of a rupture between France and England, the reciprocal guarantee declared in the said article shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guarantee shall not commence until the moment of the cessation of the present war, between the United States and England, shall have ascertained their possessions."

Martens: "Recueil des Traités," tom. 1, p. 145.

The national convention assumed that under these stipulations they might claim the exclusive right to arm and commission privateers within American ports, to bring into them their prizes, to cause the prizes thus brought in to be condemned by French consuls and sold, and even to capture enemy's vessels within the limits of the maritime jurisdiction of the United States. At least such were the pretensions of their envoy, Monsieur, or as he styled himself, Citizen Genet, a Girondist of the most exaggerated type, whose avowed object was to excite the people of the United States to a war with Great Britain.

On the other hand, Washington, then entering on his second term of office as President, was determined to preserve the neutrality of his country, and immediately on receiving intelligence of the outbreak of war, hastened from Mount Vernon to Philadelphia, and summoned his cabinet to consider:

Tucker's "History of the United States," ed. 1856, vol. 1, pages 504 to 517.

1. Whether a proclamation of neutrality should be issued.
2. Whether a minister should be received from the party then in power in France.
3. Whether the United States were bound by the guarantee in the treaty of 1778.

The cabinet differed on the second and third points, but were unanimous in the favor of the issue of a proclamation.

On referring to the history of the United States for this period, it will be seen that the President was placed in a position which made it very difficult for him to carry out the policy of neutrality which he had decided upon.

The sympathies of the people of the United States were warmly engaged on behalf of France. The hostility against England generated during the war of independence was kept alive and fostered by the excesses committed by the frontier Indians, who, it was alleged, were encouraged by the British authorities; disputes had been raised as to the interpretation of the treaty of 1783; American seamen were pressed for the British navy; the English government were said to exercise the right of search at sea, and to interfere with American merchant vessels in an arbitrary and unfriendly manner. Besides the difficulties arising from these and other similar complaints against the British government, which rendered any measure which might be supposed to be favorable to England in the highest degree unpopular, the cabinet of the President was divided into factions headed respectively by Thomas Jefferson, Secretary for Foreign Affairs, and Alexander Hamilton, Secretary of the Treasury. The former, who had served from 1782 to 1789 as minister at Paris, was at the head of the party who advocated the rights of separate government in the several States. He was a republican of extreme views, and favored the French cause. The latter, the leader of the federal or centralization party, was inclined towards the constitutional system of England, with which country he consequently in some degree sympathized.

Tucker's "History of the United States." Guizot. Washington.

It is necessary to take some notice of these obstacles to the President's policy of neutrality, as explaining the subsequent proceedings of the United States government. The nation at large and two of the cabinet, Jefferson, and the Attorney General, Edmund Randolph, were for affording assistance to France in the first instance, and even for engaging eventually in the war. Washington, with Hamilton and Henry Knox, the Secretary for War, advocated a strict neutrality, and were supported in their views by the federalist party. Washington's strength of character overcame the opposition of the French party, and he succeeded in commencing and maintaining that policy of non-intervention in European affairs which has since been consistently followed by his country up to the present time.

American State Papers, vol. i, p. 140.

The proclamation of neutrality was issued on the 22d of April, 1793, and was as follows:

"Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, on the one part, and France on the other part; and the duty and interest of the United States require that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial towards the belligerent powers:

"I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid towards those powers respectively, and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever which may in any manner tend to contravene such disposition.

"And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers to whom it belongs to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations with respect to the powers at war, or any of them.

(Signed) "WASHINGTON.

"PHILADELPHIA, *April* 22, 1793.

"By the President:

(Signed) "TH. JEFFERSON."

In the meanwhile, M. Genet had sailed from France provided with blank commissions, or letters of marque, for distribution in the ports of the United States. He arrived at Charleston on the 8th of April; but the intelligence of his landing was not received by the United States government at Philadelphia until the day on which the proclamation was issued. He at once organized a system of privateering, and within a week commissioned four vessels, the Republican, the Sans Culotte, the Anti-George, and the Citizen Genet. He also authorized the French consuls in the United States to hold courts of vice-admiralty on any vessels their cruisers might capture, to condemn them and sell the prizes. Instead of proceeding by sea to Philadelphia, M. Genet made a triumphant progress by land, haranguing the people, instituting "bonnet rouge" clubs, and endeavoring to excite the citizens of the towns through which he passed to afford active aid to the French republic, in spite of the President's declaration of neutrality.

Mr. Jefferson to Mr. Morris, United States minister at Paris, Aug. 16, 1793.

American State Papers, vol. i, p. 167.

Tucker, vol. i, page 509.

Mr. Hammond lost no time in remonstrating against these proceedings, and on the 8th of May addressed the following note to Mr. Jefferson:

MS. Inclosure in Mr. Hammond's dispatch to Lord Grenville, May 17, 1793.

"The undersigned, her Britannic Majesty's minister plenipotentiary to the United States of America, has the honor of informing the Secretary of State that he has received intelligence from his Majesty's consul at Charleston, South Carolina, that two privateers have been fitted out from that port under French commissions. They carry six small guns, and are navigated by 40 or 50 men, who are for the most part citizens of the United States. One of these privateers left the harbor of Charleston on the 18th ultimo, and the other was on the 22d ultimo ready to depart.

"The undersigned does not deem it necessary to enter into any reasoning upon these facts, as he conceives them to be breaches of that neutrality which the United States profess to observe, and direct contraventions of the proclamation which the President issued upon the 22d of last month. Under this impression he doubts not that the executive government of the United States will pursue such measures as to its wisdom may appear the best calculated for repressing such practices in future and for restoring to their rightful owners any captures which these particular privateers may attempt to bring into any of the ports of the United States."

Mr. Jefferson to Mr. Hammond, May 15, 1865.]

Mr. Hammond, at the same time, forwarded to Mr. Jefferson three other notes, complaining respectively of the illegal prize court established by the French consul at Charleston, of the intended shipment of

arms and munitions of war for France from American ports, and of the seizure of the British bark Grange by the French frigate Abondance in the Delaware river.

In acknowledging the receipt of these communications, Mr. Jefferson observed, with reference to the export of arms, that "American citizens have always been free to make, vend, and export arms; it is the constant occupation and livelihood of some of them; to suppress their callings, the only means perhaps of their subsistence, because a war exists in foreign and distant countries in which we have no concern, would scarcely be expected; it would be hard in principle and impossible in practice; the law of nations, therefore, respecting the rights of those at peace, does not require from them such an internal derangement of their occupations; it is satisfied with the external penalty pronounced by the President's proclamation, that of confiscation of such portion of those arms as shall fall into the hands of any of the belligerent powers on the way to the ports of their enemies; to this penalty American citizens are warned that they will be abandoned, and that even private contraventions may work no inequality between the parties at war, the benefit of them will be left equally free and open to all." Jefferson's Works, vol. iii, p. 557.

"Mr. Jefferson also declared that the United States government 'condemned in the highest degree the conduct of any of its citizens who might personally engage in committing hostilities at sea against any of the nations who were parties to the war, and that it would exert all the means *with which the laws and Constitution armed them* to discover such as offended therein, and would bring them to condign punishment,' and that 'the practice of commissioning, equipping, and manning vessels in American ports to cruise on any of the belligerent parties was equally and entirely disapproved, and that the government would take effectual measures to prevent a repetition of it.'" He likewise promised that the government would take measures for the liberation of the crew of the Grange, and restitution of the vessel and cargo, and concurred with Mr. Hammond that the establishment of a French prize court at Charleston was "not warranted by the usage of nations nor by the stipulations existing between the United States and France."

Mr. Hammond's note requesting the restoration of the prizes was reserved for further consideration.

M. Genet reached Philadelphia on the 16th of May, 1793. The previous day a note had been addressed to his predecessor, M. Ternant, by Mr. Jefferson, recounting the claims of violations of neutrality preferred by the British minister, Mr. George Hammond, and calling his attention to the seizure of the English bark Grange by the French frigate Abondance in the Delaware river. Attached to this note is a report of Attorney General Randolph on the general question of maritime jurisdiction. M. Genet restored the vessel. The correspondence continued until the 5th of June, when the final decision of the United States government was conveyed to M. Genet and Mr. Hammond in the following official notes: American State Papers, vol. i, p. 147.

*Mr. Jefferson to Mr. Genet.*

"PHILADELPHIA, *June* 5, 1793. Jefferson's Works, vol. iii, p. 571.

"SIR: In my letter of May the 15th to Mr. Ternant, your predecessor, after stating the answer which had been given to the several memorials of the British minister of May the 8th, it was observed that a part still remained unanswered of that which respected the fitting out of armed vessels in Charleston, to cruise against nations with whom we were at peace.

"In a conversation which I had afterwards the honor of holding with you, I observed that one of these armed vessels, the Citizen Genet, had come into this port with a prize; that the President had thereupon taken the case into further consideration, and after mature consultation and deliberation, was of opinion, that the arming and equipping vessels in the ports of the United States to cruise against nations with whom they are at peace was incompatible with the territorial sovereignty of the United States, that it made them instrumental to the annoyance of those nations, and thereby tended to compromise their peace; and that he thought it necessary, as an evidence of good faith to them, as well as a proper reparation to the sovereignty of the country, that the armed vessels of this description should depart from the ports of the United States.

"The letter of the 27th ultimo, with which you have honored me, has been laid before the President, and that part of it which contains your observations on this subject has been particularly attended to. The respect due to whatever comes from your friendship for the French nation and justice to all have induced him to re-examine the subject, and particularly to give your representations thereon the consideration they deservedly claim. After fully weighing again, however, all the principles and circumstances of the case, the result appears still to be, that it is the right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits; and the duty of a neutral to prohibit such as would injure one of the warring powers, that

the granting military commissions within the United States by any other authority than their own, is an infringement on their sovereignty, and particularly so when granted to their own citizens to lead them to act contrary to the duties they owe to their own country; that the departure of vessels thus illegally equipped from the ports of the United States will be but an acknowledgment of respect analogous to the breach of it, while it is necessary on their part, as an evidence of their faithful neutrality. On these considerations, sir, the President thinks that the United States owe it to themselves and to the nations in their friendship, to expect this out of reparation on the part of vessels marked in their very equipment with offense to the laws of the land, of which the law of nations makes an integral part.

"The expressions of friendly sentiment which we have already had the satisfaction of receiving from you, leave no room to doubt that the conclusion of the President being thus made known to you, these vessels will be permitted to give no further umbrage by their presence in the ports of the United States.

"I have, &c.,

"T. JEFFERSON."

*Mr. Jefferson to Mr. Hammond.*

"PHILADELPHIA, *June* 5, 1793.

"SIR: In the letter which I had the honor of writing you on the 15th of May, in answer to your several memorials of the 8th of that month, I mentioned that the President reserved for further consideration a part of the one which related to the equipment of two privateers in the port of Charleston. The part alluded to was that wherein you express your confidence that the executive government of the United States would pursue measures for repressing such practices in future, and for restoring to their rightful owners any captures which such privateers might bring into the ports of the United States.

"The President, after a full investigation of this subject and the most mature consideration, has charged me to communicate to you that the first part of this application is found to be just, and that effectual measures are taken for preventing repetitions of the act therein complained of; but that the latter part, desiring restitution of the prizes, is understood to be inconsistent with the rules which govern such cases, and would, therefore, be unjustifiable towards the other party.

"The principal agents in this transaction were French citizens. Being within the United States at the moment a war broke out between their own and another country, they determined to go into its defense; they purchase, arm, and equip a vessel with their own money, man it themselves, receive a regular commission from their nation, depart out of the United States, and then commence hostilities by capturing a vessel. If, under these circumstances, the commission of the captors was valid, the property according to the laws of war was by the capture transferred to them, and it would be an aggression on their nation for the United States to rescue it from them, whether on the high seas or on coming into their ports. If the commission was not valid, and consequently the property not transferred by the laws of war to the captors, then the case would have been cognizable in our courts of admiralty, and the owners might have gone thither for redress. So that on neither supposition would the Executive be justifiable in interposing.

"With respect to the United States, the transaction can in no wise be imputed to them. It was in the first moment of the war, in one of their most distant ports, before measures could be provided by the government to meet all the cases which such a state of things was to produce, impossible to have been known, and therefore impossible to have been prevented by that government.

"The moment it was known the most energetic orders were sent to every State and port in the Union to prevent a repetition of the accident. On a suggestion that citizens of the United States had taken part in the act, one who was designated was instantly committed to prison for prosecution; one or two others have been since named and committed in like manner; and should it appear that there were still others, no measures will be spared to bring them to justice. The President has even gone further. He has required, as a reparation of their breach of respect to the United States, that the vessels so armed and equipped shall depart from our ports.

"You will see, sir, in these proceedings of the President unequivocal proofs of the line of strict right which he means to pursue. The measures now mentioned are taken in justice to the one party; the ulterior measure of seizing and restoring the prizes is declined in justice to the other, and the evil thus early arrested will be of very limited effect; perhaps, indeed, soon disappear altogether.

"I have, &c.,

"TH. JEFFERSON."

Tucker, vol. i, p. 513.

Shortly afterwards a case occurred in which M. Genet openly defied the authority of the government. An English letter of marque, the Little Sarah, had been captured by a French frigate and sent into Philadelphia, where she was fitted out as a privateer under the name of the Little Democrat.

M. Genet was applied to to stop this vessel from sailing, but he refused to interfere, and said that force would be repelled by force. A detachment of 120 militia were sent to guard the vessel, but on M. Genet entering into an implied engagement that the vessel should not leave the river, they were withdrawn. The President then determined to submit to the judges a series of questions upon the points at issue between the government and M. Genet, and requested the latter to detain the Little Democrat, the ships Jane and William, in the Delaware, the Citoyen Genet, and her two prizes, the Lovely Lass and Prince William Henry, and the brig Fanny, in the Chesapeake, until the opinion of the judges could be ascertained. The Little Democrat sailed four or five days after this, while the judges declined to answer the queries put by the Executive as out of the sphere of their judicial duties, which were limited to cases of legal controversy. The cabinet accordingly decided to lay down certain rules to be observed towards belligerents in the ports of the United States. These rules were carefully framed in accordance with the received doctrines of international law, slightly modified by the treaty between the United States and France, and were communicated to the collectors of customs with the following circular:

American State Papers, vol. i, p. 163.

Mr. Jefferson to M. Genet, July 12, 1793.

Tucker, vol. i, p. 515.

*Instructions to the collectors of customs.*

"PHILADELPHIA, *August* 4, 1793.

"SIR: It appearing that repeated contraventions of our neutrality laws have taken place in the ports of the United States, without having been discovered in time for prevention or remedy, I have it in command from the President to address to the collectors of the respective districts a particular instruction on the subject.

Mr. Hamilton to the collectors of customs; Aug. 4, 1793.

American State Papers, vol. i, p. 141.

"It is expected that the officers of customs in each district will, in the course of their official functions, have a vigilant eye upon whatever may be passing within the ports, harbors, creeks, inlets, and waters of such district, of a nature to contravene the laws of neutrality, and upon discovery of anything of the kind, will give immediate notice to the governor of the State, and to the attorney of the judicial district comprehending the district of the customs within which any such contravention may happen.

"To assist the judgment of the officers on this head, I transmit herewith a schedule of rules concerning sundry particulars which have been adopted by the President, as deductions from the laws of neutrality, established and received among nations. Whatever shall be contrary to these rules will, of course, be to be notified as above mentioned.

"There are some points which, pursuant to our treaties, and the determination of the Executive, I ought to notice to you.

"If any vessel of the powers at war with France should *bring or send* within your district a prize made of the subjects, people, or property of France, it is immediately to be notified to the governor of the State, in order that measures may be taken, pursuant to the 17th article of the treaty with France, to oblige such vessel and her prize, or such prize, when sent in without the capturing vessel, to depart.

"No privateer of any of the powers at war with France, coming within a district of the United States, can, by the 22d article of our treaty with France, enjoy any other privilege than that of *purchasing such victuals as shall be necessary for her going to the next port of the prince or state from which she has her commission.* If she should do anything besides this, it is immediately to be reported to the governor, and the attorney of the district. You will observe by the rules transmitted, that the term privateer is understood not to extend to vessels armed, for merchandise and war, commonly called with us *letters of marque*, nor, of course, to vessels of war in the immediate service of the government of either of the powers at war.

"No armed vessel which has been or shall be *originally fitted out* in any port of the United States, by either of the parties at war, is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district she is immediately to be notified to the governor and to the attorney of the district, which is also to be done in respect to any prize that such armed vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the Executive.

"The purchasing within and exporting from the United States, *by way of merchandise*, articles commonly called contraband, being generally warlike instruments and military stores, is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry them to any of the parties, they will be abandoned to the penalties which the laws of war authorize.

"You will be particularly careful to observe, and to notify as directed in other instances, the case of any citizen of the United States who shall be found in the service of either of the parties at war.

"In case any vessel shall be found in the act of contravening any of the rules or prin-

ciples which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the governor shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade or to vex any of the parties concerned.

"In order that *contraventions* may be the better ascertained, it is desired that the officer who shall first go on board any vessel arriving within your district shall make an accurate survey of her then condition as to *military equipment* to be forthwith reported to you; and that prior to her clearance a like survey be made, that any transgression of the rules laid down may be ascertained.

"But, as the propriety of any such inspection of *a vessel of war in the immediate service of the government* of a foreign nation is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel till further orders on the point.

"The President desires me to signify to you his most particular expectation that the instructions contained in this letter will be executed with the greatest vigilance, care, activity and impartiality. Omissions will tend to expose the government to serious imputations and suspicions, and proportionably to commit the good faith and peace of the country, objects of too much importance not to engage every proper exertion of your zeal.

"With consideration, I am, sir, &c.,

"ALEXANDER HAMILTON."

"1. The original arming and equipping of vessels in the ports of the United States by any of the belligerent parties for military service, offensive or defensive, is deemed unlawful.

"2. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

"3. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people, or property of France, coming with their prizes into the ports of the United States, pursuant to the XVIIth article of our treaty of amity and commerce with France.

"4. Equipments in the ports of the United States, by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful, except those which shall have made prize, &c.

"5. Equipments of any of the vessels of France, in the ports of the United States, which are doubtful in their nature as being applicable to commerce or war, are deemed lawful.

"6. Equipments of every kind, in the ports of the United States, of privateers of the powers at war with France, are deemed unlawful.

"7. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the XVIIIth article of our treaty with France, the XVIth of our treaty with the United Netherlands, the XVIIIth of our treaty with Prussia.

"8. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist their own subjects or citizens, not being inhabitants of the United States, except privateers of the powers at war with France, and except those vessels which have made prizes, &c."

American State Papers, vol. i, page 167.

On the 7th of August Mr. Jefferson wrote to M. Genet, stating that the President had decided that compensation or restitution should be made in the case of vessels brought into United States ports as prizes by privateers fitted out in such ports since the 5th of June, and consequently called on him to restore these prizes, as otherwise the government of France would be considered liable for the repayment of the compensation paid to the persons aggrieved. Mr. Jefferson adds, "that besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall be hereafter brought within their ports by any of the said privateers."

Mr. Hammond was also informed of this decision of the President:

*Mr. Jefferson to Mr. Hammond.*

"PHILADELPHIA, *August* 7, 1793.

MS. inclosure in Mr. Hammond's dispatch to Lord Grenville August 10, 1793.

"SIR: A constant expectation of carrying into full effect the declaration of the President against permitting the armament of vessels within the ports of the United States to cruise on nations with which they are at peace, has hitherto prevented me giving you a final answer on the subject of such vessels and their prizes. Measures to this effect are still taking, and particularly for excluding from all further asylum in our

ports the vessels so armed and for the restoration of the prizes the Lively Lass, the Prince William Henry, and the Jane of Dublin, taken by them; and I am authorized in the meantime to assure you that should the measures for restoration fail in their effect, the President considers it as incumbent upon the United States to make compensation for the vessels.

"I have, &c.,

"T. JEFFERSON."

Mr. Jefferson to Mr. Morris, United States minister at Paris, August 16, 1793. American State Papers, vol. i, page 167.

The affair of the Little Democrat, in which the government was thus "insulted and set at defiance by M. Genet," determined them on asking for his recall; and the United States minister at Paris was accordingly instructed, on the 16th of August, to represent to the French government that if M. Genet persevered in his proceedings the United States government would "be forced even to suspend his functions before a successor could arrive to continue them."

M. Genet seems to have tried to test the neutrality of the United States government on every point. He maintained the right of the French government not only to issue commissions and to equip vessels, but also openly to man their privateers in American ports. Two seamen, named Henfield and Singletary, were arrested on board the Citizen Genet at Philadelphia, for having enlisted in the French service. M. Genet remonstrated in his usual bombastic style, demanding their immediate release. This was refused, and Henfield brought to trial. The jury, however, acquitted him on the plea of his having been ignorant of having committed an offense in taking service in a French privateer. M. Genet also engaged in an intrigue for the seizure of New Orleans by some malcontents in Kentucky. In short, he managed, during the few months he remained the representative of France, to damage the interests of his country in every conceivable way; while the temperate remonstrances of the English minister afforded a contrast to these exaggerated pretensions, and served to confirm the President in his policy of neutrality and to influence the cabinet in favor of England.

M. Genet to Mr. Jefferson; June 1, 1793. American State Papers, vol. i, page 151. Tucker, vol. i, pages 517 and 518.

Certain prizes having been brought in by vessels fitted out after the 5th of June as well as those brought in by vessels fitted out before that date, of which restitution had already been refused, Mr. Hammond wrote on the 30th of August to Mr. Jefferson requesting to be informed of the precise intentions of the government respecting the restoration of prizes.

MS. inclosure in Mr. Hammond's dispatch to Lord Grenville of the 17th of September, 1793.

Mr. Hammond says: "I understand that all captures made subsequently to the 5th of June, and antecedently to the 7th of August, by any vessel fitted out, armed and equipped in the ports of the United States, are either to be restored to the captors, or a compensation for their full value is to be paid to their owners by the government of the United States, and that all prizes made by vessels of this description subsequently to the 7th of August are to be seized, and immediately restored by the government of the United States, or if the restitution cannot be effected, a compensation for their full value is to be paid in the same manner as in the former case."

Mr. Jefferson replied on the 5th of September:

"PHILADELPHIA, *September* 5, 1793.

"SIR: I am honored with yours of August 30. Mine of the 7th of that month assured you that measures were taken for excluding from all further asylum in our ports vessels armed in them to cruise on nations with which we are at peace, and for the restoration of the prizes the Lovely Lass, Prince William Henry, and the Jane, of Dublin, and that should the measures for restitution fail in their effect, the President considered it as incumbent on the United States to make compensation for the vessels.

"We are bound by our treaties with three of the belligerent nations, by all the means in our power, to protect and defend their vessels and effects in our ports or waters, or on the seas near our shores, and to recover and restore the same to the right owners when taken from them. If all the means in our power are used, and fail in their effect, we are not bound by our treaties with those nations to make compensation.

"Though we have no similar treaty with Great Britain, it was the opinion of the President that we should use towards that nation the same rule which, under this article, was to govern us with the other nations, and even to extend it to captures made on the high seas, and brought into our ports, if done by vessels which had been armed within them.

"Having, for particular reasons, forbore to use all the means in our power for the restitution of the three vessels mentioned in my letter of August 7, the President thought it incumbent on the United States to make compensation for them; and though nothing was said in that letter of other vessels taken under like circumstances, and brought in after the 5th of June, and before the date of that letter, yet, when the same forbearance had taken place, it was and is his opinion that compensation would be equally due.

"As to prizes made under the same circumstances, and brought in after the date of that letter, the President determined that all the means in our power should be used for their restitution. If these fail, as we should not be bound by our treaties to make compensation to the other powers, in the analogous case, he did not mean to give an opinion that it ought to be done to Great Britain. But still, if any cases shall arise subsequent to that date, the circumstances of which shall place them on similar ground with those before it, the President would think compensation equally incumbent on the United States.

"Instructions are given to the governors of the different States to use all the means in their power for restoring prizes of this last description found within their ports. Though they will, of course, take measures to be informed of them, and the general government has given them the aid of the custom-house officers for this purpose, yet you will be sensible of the importance of multiplying the channels of their information as far as shall depend on yourself or any person under your direction, in order that the governors may use the means in their power for making restitution. Without knowledge of the capture, they cannot restore it. It will always be best to give the notice to them directly; but any information which you shall be pleased to send to me also, at any time, shall be forwarded to them as quickly as distance will permit.

"Hence you will perceive, sir, that the President contemplates restitution or compensation in the cases before the 7th of August, and after that date, restitution, if it can be effected by any means in our power, and that it will be important that you should substantiate the fact that such prizes are in our ports or waters.

"Your list of the privateers illicitly armed in our ports is, I believe, correct.

"With respect to losses by detention, waste, spoliation, sustained by vessels taken as before mentioned, between the dates of the 5th June and the 7th August, it is proposed as a provisional measure that the collector of the customs of the district, and the British consul, or any other person you please, shall appoint persons to establish the value of the vessel and cargo, at the time of her capture, and of her arrival in the port into which she is brought, according to their value in that port.

"If this shall be agreeable to you, and you will be pleased to signify it to me, with the names of the prizes understood to be of this description, instructions will be given accordingly to the collectors of the customs where the respective vessels are.

"I have, &c.,

(Signed) "TH. JEFFERSON."

This letter was appended to the treaty of the 19th of November, 1794.

Hertslett's State Paper, vol. i, p. 801.

The particular reasons referred to were the unwillingness of the United States government to oppose the sailing of the French privateers by force.

Mr. Jefferson to Mr. Morris; August 16, 1793. American State Papers, vol. i. p. 167.

The result of the publication of the rules of the 4th August was that the system of privateering was, generally speaking, suppressed, though cases seem to have occurred until the arrival of M. Genet's successor in February, 1794, who disavowed his acts, and recalled the commissions he had granted to privateers.

It must be remembered that the United States did not possess any navy at this time, the construction of a naval force not being carried out until 1794; so that even if the government wished to stop a privateer, they could only do so by employing militia to board her, unless she happened to be lying under the guns of a fort.

In October, M. Duplaine, the French vice-consul at Boston, having rescued by force a suspected vessel which had been seized by the marshal, the United States government withdrew his exequatur.

Congress met on the 3d of December, and in his address the President spoke of the measures adopted for the preservation of neutrality, and the necessity for legislation on the subject in the following terms:

American State Papers, vol. i, p. 21.

"As soon as the war in Europe had embraced those powers with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations." * * * * "In this posture of affairs, both new and delicate, I resolved to adopt general rules which should conform to the treaties and assert the privileges of the United States." * * * "Although I have not thought myself at liberty to forbid the sale of prizes permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored when they were taken within the protection of our territory or by vessels commissioned or equipped in warlike form within the limits of the United States. It rests with the wisdom of Congress to correct, improve, or enforce this plan of procedure, and it will probably be found expedient to extend the legal code and the jurisdiction of the courts of the United States to many cases which, though dependent on principles already recognized, demand some further provisions.

"Where individuals shall within the United States array themselves in hostility

against any of the powers at war, or enter upon military expeditions or enterprizes within the jurisdiction of the United States, or usurp and exercise judicial authority within the United States, or where the penalties on violations of the law of nations may have been indistinctly marked or are inadequate; these offences cannot receive too early and close an attention, and require prompt and decisive remedies." * * * *

"In like manner, as several of the courts have doubted under particular circumstances their power to liberate the vessels of a nation at peace, and even of a citizen of the United States, although seized under a false color of being hostile property, and have denied their power to liberate certain captures within the protection of our territory, it would seem proper to regulate their jurisdiction in these points."

Soon after the opening of the sessions Jefferson retired from the cabinet into private life, and did not take any active part in politics for the next three years. Washington was thus left free to carry out his policy and to establish relations with England on a more friendly footing. Tucker, vol. i, page 526.

The early part of the session was occupied with discussions on the imposition of a protective duty on trade with nations not having commercial treaties with the United States. This measure was aimed at British trade, and was a consequence of the ill-feeling that had been occasioned by the British orders in council of June and November, 1793, authorizing the seizure of United States merchant ships laden with corn for France, or found attempting to break the blockade.

The next measure introduced was for the construction of a navy, and was intended as a provision against the contingency of a war with England, although nominally adopted as a defence for American commerce against the Algerine pirates.

On the 27th of March, Mr. Dayton, of New Jersey, offered a resolution for sequestering all debts due to British subjects, as a fund to indemnify citizens of the United States for the unlawful depredations of British cruisers.

Before any vote was taken, Mr. Clarke, of New Jersey, proposed that all intercourse with Great Britain should be prohibited until satisfaction was obtained.

While these subjects were pending, the President, on the 4th of April, communicated to Congress a dispatch from Mr. Pinckney, the United States minister in London, forwarding a copy of an order in council of the 8th of January, modifying the instructions to cruisers contained in the previous orders. American State Papers, vol. i, page 431.

This caused the popular feeling to incline in favor of England, and the republican or anti-federal party abandoned their scheme of commercial retaliation, and assented to a proposition made by the federalists, that a special mission should be sent to England to settle the various questions in dispute. Tucker, vol. i, page 544.

Mr. Jay, Chief Justice of the Supreme Court, a descendant of one of the families which took refuge in England at the time of the revocation of the edict of Nantes, a federalist, and friend of the English cause, was selected for the post of envoy.* Vie de Washington, par De Witt.

He was nominated on the 16th of April but did not arrive in London until the 15th of June.

The inadequacy of the existing law to deal with even the grossest breach of the neutrality proclamation had been shown a short time previously by the grand jury of Philadelphia having refused to find a true bill against the French vice-consul, Duplaine, (the vice-consul whose exequatur had been withdrawn in October, 1793) for the forcible rescue of the Greyhound.

It was apparent that no time must be lost in amending the law on this subject, and in accordance with the recommendation in the President's message, a bill was now introduced for the purpose.

The bill was vigorously opposed by the republicans, and "would have been defeated in the Senate, if repeated motions made with that view had not been lost by the vote of the Vice-President. Tucker, vol. i, page 546.

"The republican party had a majority in the Senate of one member, but the seat of Mr. Galatin, from Pennsylvania, one of that majority, having been contested and set aside on the ground that he had not been a citizen so long as the Constitution required, the two parties were exactly balanced."

This act, which forms the basis of the United States neutrality laws, contains ten clauses, and is entitled "An act in addition to the act for the punishment of certain crimes against the United States." (The act thus referred to is the act of April 30, 1790, providing for the punishment of high treason and other offenses against the state or individuals.) As this act is substantially the same as the act of 1818, and as in referring to that act attention will be called to the points in which they differ, it will be sufficient to give here a short abstract of the different articles. United States Statutes at Large; third Congress, sess. 1, ch. 50. June 5, 1794. British State Papers, (Hertslet's,) vol. iv, page 339.

* See the correspondence respecting Mr. Jay's mission, American State Papers, vol. i, pages 470 to 525. (There is an interesting report on the law of prize, furnished to Mr. Jay by Sir W. Scott and Dr. Nicholl, which deserves attention, page 494.)

SECTION 1. Any citizen of the United States, within the jurisdiction of the same, accepting or exercising a commission to serve a foreign prince or state by sea or land, liable to a fine of $2,000, or imprisonment for not more than three years.

SEC. 2. Any person within the jurisdiction of the United States entering himself or enlisting others, or hiring or retaining another person to enlist for the service of the army or navy of any foreign prince or state, liable to a fine of $1,000, or three years' imprisonment. This not to apply to foreigners transiently within the United States. Any person so enlisted giving information within 30 days to be indemnified from punishment.

SEC. 3. Any person within any of the ports, harbors, bays, rivers, or other waters of the United States, fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or attempting to, &c., or knowingly concerned in the furnishing, &c., of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign state, to cruise or commit hostilities against the subjects, citizens, or property of another state, with which the United States shall be at peace, or commissioning any such vessel, to be liable to a fine of $5,000 or three years' imprisonment, and the vessel, tackle, &c., to be forfeited, one half to the informer and the other half to the United States.

SEC. 4. Any person augmenting or procuring to be augmented the force of any ship of war in the service of a state at war with a state with which the United States are at peace, by adding to the number or size of the guns of such vessel, or by the addition thereto of any equipment solely applicable to war, to be liable to a fine of $1,000 or imprisonment for one year.

SEC. 5. Any person within the jurisdiction of the United States setting on foot or preparing any military enterprise against any state with which the United States are at peace, to be liable to a fine of $3,000 or one year's imprisonment.

SEC. 6. District courts to have cognizance of captures made within the waters or within a marine league of the coasts or shores of the United States.

SEC. 7. The militia or land or naval forces to be employed for enforcing this act, for detaining any vessel contravening it and her prizes, and for restoring such prizes when restoration may be adjudged, and for preventing illegal military expeditions.

SEC. 8. The militia, &c., to be employed as shall be necessary to compel any foreign ship or vessel to depart the United States in all cases in which, by the laws of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 9. Prosecution of treason or piracy not to be impaired.

SEC. 10. The act to continue in force for two years, and thence to the end of the next session of Congress.*

This act afforded an answer to M. Genet's pretensions and to Mr. Hammond's complaints. It now only remains to be seen how the British claims acknowledged in Mr. Jefferson's letter of the 5th of September, 1793, were disposed of.

This was done by the insertion in the treaty concluded by Mr. Jay on the 19th of November,† 1794, of articles providing for the appointment of commissioners to consider the compensation to be awarded (Article VII) in cases of complaints made by United States merchants of loss and damage sustained "by reason of irregular or illegal captures or condemnations of their vessels and other property under color of authority or commissions from his Majesty;" and also in cases of complaints of his Majesty's subjects, "that in the course of the war they have sustained loss and damage by reason of the capture of their vessels and merchandise taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States," * * * * "where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5, 1793." And (Article XXI) it is likewise "agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign prince or state," &c.

American State Papers, vol. 1, page 590.

"ART. XXIV. It shall not be lawful for any foreign privateers, (not being subjects or citizens of either of the said parties,) who have commissions from any other prince or state in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken," &c.

"ART. XXVIII. It is agreed that the first ten articles of this treaty shall be permanent, and the subsequent articles, except the twelfth, (providing for trade with the West Indies,) shall be limited in their duration to 12 years" from the exchange of ratifications.

As previously stated, Mr. Jefferson's letter of the 5th of September, 1793, was annexed to this treaty, so that the effect of the 7th article was to make compensation to Great

* Re-enacted March 2, 1797, and made perpetual April 24, 1800.

† This was the first treaty providing for a commission to investigate British and American claims. A second commission was appointed under the treaty of Ghent of 1814, to consider claims arising from the seizure of slaves; and a third under the convention of February 8, 1853, for the general settlement of outstanding claims.

Britain for all prizes taken by vessels fitted out by France in the United States after the 5th of June, 1793, (the date of Mr. Jefferson's letter of prohibition to M. Genet,) if such prizes had been brought into ports of the United States; but not to make compensation for any prizes brought in by vessels fitted out before the 5th of June, 1793, or for any prizes whatever not brought into United States ports.

Having thus traced the United States neutrality law from its origin in the proclamation of the 22d of April, 1793, to the act of 1794, it may be convenient to notice some of the principal decisions in the Supreme Court of cases illustrative of the operation of the law as thus originally framed.

February, 1794, the sloop Betsy, (a vessel captured by the French privateer the Citizen Genet, and sent in to Baltimore.) Decisions in the Supreme Court of the United States. Curtis, vol. i, page 74.

*Judgment.*—No foreign power can rightfully erect any court of judicature within the United States unless by force of a treaty.

The admiralty jurisdiction exercised by consuls of France in the United States is not of right.

August, 1795. Talbot *v.* Janson. Case of a Dutch vessel, the Magdalena, brought into Charleston by the privateer L'Ami de la Liberté, alleged to have been an American-owned ship, armed and equipped in Chesapeake bay and Charleston. Curtis, vol. i, page 128.

*Judgment.*—The capture of a vessel of a country at peace with the United States, made by a vessel fitted out in one of our ports, and commanded by one of our citizens, is illegal; and if the captured vessel is brought within our jurisdiction, the district courts, upon a libel for a tortious seizure, may inquire into the facts and decree restitution.

Restitution decreed with damages.

August, 1796. Moodie *v.* The ship Alfred.

*Judgment.*—It is not a violation of the neutrality laws of the United States to sell to a foreigner a vessel built in this country, though suited to be a privateer, and having some equipments calculated for war, but frequently used for merchant-ships. Ibid., vol. i, page 234.

Restitution refused.

August, 1796. Moodie *v.* The ship Phœbe Anne.

*Judgment.*—Under the XIXth article of the treaty with France a privateer has a right to make repairs in our ports. Ibid., vol. i, page 237.

The replacement of her force is not an augmentation of it.

Restitution refused.

In June, 1797, a short act was passed prohibiting any citizen of the United States, "without the limit of the same," from fitting out and arming, &c., any private ship or vessel of war with intent, &c., or taking the command of or entering on board of, or purchasing any interest in any such vessel, under penalty of a fine of $10,000, or imprisonment for not more than ten years. "United States Statutes at Large, vol. i, page 561. Fifth Congress, sess. 1, ch. 1; June 14, 1797.

This act was entirely repealed by the act of 1818.

The restriction imposed on intercourse with France in 1799, by the act of Congress of the 9th of February, put a stop to any further privateering cases, and the next report of a decision affecting international relations occurs in February, 1804.

"Church *v.* Hubbart." Case of the Aurora seized at Para for attempted smuggling. The case was brought before the United States court on an insurance claim. Curtis, vol. i, page 470.

In pronouncing judgment, Chief Justice Marshall observed: "The authority of a nation within its own territory is absolute and exclusive. The seizure of a vessel within the range of its cannon by a foreign force is an invasion of that territory, and is a hostile act which it is its duty to repel. But its power to secure itself from injury may certainly be exercised beyond the limits of its territory. Upon this principle, the right of a belligerent to search a neutral vessel on the high seas for contraband of war is universally admitted.

A case arose in 1808 as to the validity of the capture by a French privateer of a ship dispatched from a port held by the St. Domingo rebels, and the subsequent condemnation of her cargo in the court of the French delegate at Santo Domingo, (Rose *v.* Himely. Case of the Sarah, February, 1808.) Amongst other matters affecting the law of prize, it was laid down that, whether a revolted colony is to be treated as a sovereign state, is a political question to be decided by governments, not by courts of justice; and the courts of the United States must consider the ancient state of things as remaining until the sovereignty of the revolted colony is acknowledged by the government of the United States. Curtis, vol. ii, page 87.

Restitution decreed without costs.

In March, 1806, Miranda's expedition against Caracas was fitted out at New York. The expedition consisted of the Leander, armed vessel of 18 guns, and two schooners. Miranda was met by two Spanish ships of war off Puerto Cabello. An action ensued, in which he lost his schooners and was Annual Register, 1806.

compelled to take refuge at Grenada. Fifty-seven of his followers were taken in the schooners and carried to Puerto Cabello, where they were tried for piracy, 10 of them condemned to death and the rest to imprisonment.

President Jefferson, in his message to Congress of the 2d of December, 1806, speaks of this expedition in the following terms: "Having received information, that, in another part of the United States, a great number of private individuals were combining together, arming, and organizing themselves, contrary to law, to carry on a military expedition against the territories of Spain, I thought it necessary, by proclamation as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and abettors. It was due to that good faith which ought ever to be the rule of action in public as in private transaction; it was due to good order and regular government, that while the public force was acting strictly on the defensive, and merely to protect our citizens from aggression, the criminal attempts of private individuals to decide for their country the question of peace or war by commencing active and unauthorized hostilities, should be promptly and efficaciously suppressed."

American State Papers, vol. i, page 68.

Writing to Don Valentine de Foronda in 1809, President Jefferson said of this transaction: "Your predecessor, soured on a question of etiquette against the administration of this country, wished to impute wrong to them in all their actions, even where he did not believe it himself. In this spirit he wished it to be believed that we were in unjustifiable co-operation in Miranda's expedition. I solemnly, and on my personal truth and honor, declare to you that this was entirely without foundation and that there was neither co-operation nor connivance on our part. He informed us he was about to attempt the liberation of his native country from bondage, and intimated a hope of our aid, or connivance at least. He was at once informed that although we had great cause of complaint against Spain and even of war, yet whenever we should think proper to act as an enemy it should be openly and above-board, and that our hostility should never be exercised by such petty means. We had no suspicion that he expected to engage men here, but merely to purchase military stores. Against this there was no law, nor consequently any authority for us to interpose obstacles. On the other hand, we deemed it improper to betray his voluntary communication to the agents of Spain. Although his measures were many days in preparation at New York, we never had the least intimation or suspicion of his engaging men in his enterprise until he was gone; and I presume the secrecy of his proceeding kept them equally unknown to the Marquis Yrujo at Philadelphia and the Spanish consul at New York, since neither of them gave us any information of the enlistment of men, until it was too late for any measures taken at Washington to prevent their departure. The officer in the customs who participated in this transaction with Miranda we immediately removed, and should have had him and others further punished had it not been for the protection given them by private citizens at New York, in opposition to the government, who, by their impudent falsehoods and calumnies, were able to overbear the minds of the jurors."

Jefferson's Works, vol. v, page 473.

Mr. Dana, in his recent edition of Wheaton, remarks: "The Spanish government complained that a military expedition had been fitted out in New York, under Miranda, in 1806, to operate against Spain in South America. There seems no doubt that this might and ought to have been prevented by us."

Wheaton's Elements of International Law is edited by R. H. Dana; 8th edition, 1866, page 558.—Note.

The war between Spain and her colonies broke out in 1810, and the United States government again found themselves placed in a position of great difficulty for maintaining their neutrality. The sympathies of the people of the United States were naturally warmly enlisted on behalf of their fellow republicans; while it would appear that the equipment of vessels to cruise against Spanish commerce was a profitable as well as a popular undertaking, and became a kind of commercial speculation.

Correspondence between the governments of Spain and the United States, 1817–18, and of Portugal and the United States, 1816–'51.

In December, 1810, a vessel named the Exchange, of Baltimore, was captured by a French privateer on a voyage to St. Sebastian's, in Spain; afterwards coming to Philadelphia as a French public vessel under the name of the Balaon.

The schooner Exchange *vs.* McFadden and others, February, 1812.

Curtis, vol. ii, p. 478.

The French captain averred that he had put into Philadelphia from stress of weather, and produced an affidavit of the French consul verifying his commission, and stating that the public vessels of the Emperor of France never carry with them any other document or evidence that they belong to him than his flag, the commission, and the possession of his officers.

*Judgment.*—A public armed vessel in the service of a sovereign at peace with the United States is not within the ordinary jurisdiction of our tribunals while in a port in the United States.

But the sovereign power of the United States may interpose and impart such a jurisdiction.

Restitution refused.

February, 1815.—The brig Alerta and cargo *vs.* Blas.

*Judgment.*—If a capture be made by a privateer which had been illegally equipped in a neutral country, the priz ecourts of such neutral country have power, and it is their duty, to restore the captured property, if brought within their jurisdiction, to its owner. Curtis, vol. iii, p. 379.

Vessel and cargo restored.

On the 1st of September, 1815, President Madison issued a proclamation prohibiting the outfit of illegal expeditions in the United States: American State Papers, vol. iv, p. 1.

"Whereas information has been received that sundry persons, citizens of the United States, or residents within the same, and especially within the State of Louisiana, are conspiring together to begin and set on foot, provide, and prepare the means for a military expedition or enterprise against the dominions of Spain, with which the United States are happily at peace; that for this purpose they are collecting arms, military stores, provisions, vessels, and other means, and deceiving and seducing honest and well-meaning citizens to engage in their unlawful enterprises; or organizing, officering, and arming themselves for the same, contrary to the laws in such cases made and provided. I have therefore thought fit to issue this my proclamation, warning and enjoining all faithful citizens who have been led, without due knowledge or consideration, to participate in the said unlawful enterprises, to withdraw from the same without delay, and commanding all persons whatsoever engaged or concerned in the same to cease all further proceedings therein, as they will answer the contrary at their peril. And I hereby enjoin and require all officers, civil and military, of the United States, or of any of the States or Territories, all judges, justices, and other officers of the peace, all military officers of the army or navy of the United States, and officers of the militia, to be vigilant, each within his respective department, and according to his functions, in searching out and bringing to punishment all persons engaged or concerned in such enterprises; in seizing and detaining, subject to the disposition of the law, all arms, military stores, vessels, or other means provided or providing for the same, and in general in preventing the carrying on such expedition or enterprise by all the lawful means within their power; and I require all good and faithful citizens and others within the United States to be aiding and assisting herein, and especially in the discovery, apprehension, and bringing to justice all such offenders, in preventing the execution of their unlawful combinations or designs, and in giving information against them to the proper authorities.

"JAMES MADISON.

"WASHINGTON, *September* 1, 1815."

In 1816 the Portuguese-Brazilian government intervened by force in Buenos Ayres, and thus became a party to the contest between Spain and her South American colonies. Annual Register, 1816.

In December of that year President Madison communicated to Congress the following message: American State Papers, vol. iv, p. 103.

"WASHINGTON, *December* 26, 1816.

"It is found that the existing laws have not the efficacy necessary to prevent violations of the obligations of the United States as a nation at peace towards belligerent parties, and other unlawful acts in the high seas by armed vessels equipped within the waters of the United States.

"With a view to maintain more effectually the respect due to the laws, to the character, and to the neutral and pacific relations of the United States, I recommend to the consideration of Congress the expediency of such further legislative provisions as may be requisite for detaining vessels actually equipped, or in a course of equipment, with a warlike force, within the jurisdiction of the United States; or, as the case may be, for obtaining from the owners or commanders of such vessels adequate securities against the abuse of their armaments, with the exceptions in such provisions of the cases of merchant vessels furnished with the defensive armaments used on distant and dangerous expeditions, and of a private commerce in military stores permitted by our laws, and which the law of nations does not require the United States to prohibit.

"JAMES MADISON."

The Committee on Foreign Affairs at the same time laid before the House of Representatives some papers relating to this subject, among which were a letter from the Secretary of State, (Mr. Monroe,) reporting "That the provisions necessary to make the laws effectual against fitting out armed vessels in our ports for the purpose of hostile cruising seem to be—

"1st. That they should be laid under bond not to violate the treaties of the United States or the obligations of the United States under the law of nations, in all cases where there is reason to suspect such a purpose on foot, including the cases of vessels taking on board arms and munitions of war, applicable to the equipment and armament of such vessels subsequent to their departure.

"2d. To invest the collectors, or other revenue officers where there are no collectors, with

power to seize and detain vessels under circumstances indicating strong presumption of an intended breach of the law; the detention to take place until the Executive, on a full representation of the facts had thereupon can be obtained. The statute book contains analogous powers to this above suggested. (See particularly the 11th section of the act of Congress of April 25, 1808.)

"The existing laws do not go to this extent. They do not authorize the demand of security in any shape, or any interposition on the part of the magistracy as a preventive, where there is reason to suspect an intention to commit the offense. They rest upon the general footing of punishing the offense where, if there be full evidence of the actual perpetration of the crime, the party is bonded over after the trial to the penalty denounced."

United States Statutes at Large, vol. iii, p. 370.

On the 3d of March, 1817, a short act was passed, in which (in order to meet a question which had been raised as to whether the South American armies, not being formerly recognized as independent communities, came within the scope of the act of 1794) the terms "army, district, or people," are inserted after the phrase "prince or state," as it stands in the first section of the act of 1794.

"British and Foreign State Papers," vol. iv, p. 830.

The recommendations of the President and Mr. Monroe were partially carried out by provisions in the 2d and 3d sections of this act for a bond being taken from the owners of suspected vessels.

American State Papers, vol. iv, p. 130.

The President in his message to Congress of the 2d of December, 1817, called attention to piratical establishments which had been constituted at Amelia island and Galveston, and stated that instructions had been given for their suppression. "The establishments, if ever sanctioned by any authority whatever, which is not believed, have abused their trust and forfeited all claim to consideration."

It appears that these places were used as rendezvous for smugglers and slave dealers, who introduced slaves from them into the United States in defiance of the laws.

Amelia island was in Spanish territory, and had been the subject of negotiation between Spain and the United States.

American State Papers, vol. iv, p. 132.

Galveston was in the disputed territory on the Spanish and United States boundary.

It appears that "among the avowed projects of the persons who had occupied Amelia island was that of making a conquest of East and West Florida, professedly for the purpose of establishing there an independent government. * * * The greater part of West Florida being in the actual possession of the United States, this project involved in it designs of direct hostility against them; and, as the express object of the resolution and act of January 15, 1811, was to authorize the President to prevent the province of East Florida from passing into the hands of any foreign power, it became the obvious duty of the President to exercise the authority vested in him by that law."

Moreover, it was "a matter of public notoriety that two of the persons who had successively held the command at Amelia island, whether authorized themselves by any government or not, had issued commissions for privateers, as in the name of the Venezulean and Mexican governments, to vessels fitted out in the ports of the United States, and chiefly manned and officered by United States citizens."

The Galveston establishment was formed by a Commodore Oury, principally for the purpose of privateering and slave dealing. He issued commissions in the name of the Mexican republic, and fitted out his vessels in United States ports, and brought his prizes to Galveston, where they were condemned by a fictitious admiralty court, and the prize vessels and cargoes afterwards sent to the United States for sale. Some of these prizes were restored to the original owners by process in the Louisiana district court.

A United States force was dispatched against both these establishments, and in December, 1817, they were forcibly suppressed. Spain remonstrated against the occupation of Amelia island, but the United States government stated that it was a temporary measure which had been carried out in the public interest, and was not intended as an infraction of any Spanish rights of sovereignty.

American State Papers, vol. iv, p. 183.

In 1818, a further foreign enlishment act was passed (April 3) repealing and revising the acts of 1794, 1797, and 1817. This act is the one now in force.

"United States Statutes at Large," vol. iii, p. 447.

The principal points in which it differs from the act of 1794 are as follows:

"British and Foreign State Papers," vol. ix, p. 382.

SECTION 1. Instead of the words "foreign prince or state," the words are "foreign prince, state, colony, district, or people," and so throughout the act.

SEC. 2. Omits the last paragraph of indemnity to the informer.

SEC. 3. Has "within the limits of the United States," instead of "within any of the ports, harbors, bays, rivers, or other waters." The penalty is made $10,000 instead of $5,000.

SEC. 4. Has no corresponding clause in the act of 1794. It provides against the equipment of vessels "without the limits" of the United States to commit hostilities "upon the citizens of the United States or their property," under penalty of a fine of $10,000 or imprisonment for not more than 10 years.

This clause is similar in its general provisions to the act of 1797, with the material difference that that act provided for the punishment of an offense committed "without the limits" of the United States upon "*the citizens or property of any prince or state with whom the United States are at peace*, or upon the citizens of the United States or their property."

SEC. 5. Is the same as section 4 in the act of 1794, with the addition of "or by changing those on board of her for guns of a larger caliber" after the words "by adding to the number of the guns in such vessel."

SEC. 6 (same as Sec. 5.) The penalty is made *one* year instead of *three* years' imprisonment.

SECS. 7 and 8. Same as Secs. 8 and 9.

SECS. 10 and 11. The "bonding" clauses are nearly the same as those in the act of 1817, and as they are of importance as constituting the chief difference between the English and American foreign enlistment acts, are here given at length:

"SEC. 10. *And be it further enacted*, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property, of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

"SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign state, or of any colony, district, or people with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act."*

SEC. 12. Repeals the acts of 1794 and 1797.

A few more decisions in the Supreme Court remain to be noticed.

The "Divina Pastora," February, 1819. Curtis, vol. iv, page 345.

*Judgment.*—The government of the United States having recognized the existence of a civil war between Spain and her colonies, our courts are bound to recognize as lawful those acts which war authorizes, and the new government in South America.

Captures made under their commission must be treated by us like other captures.

Their legality cannot be determined in our courts, unless made in violation of our neutrality.

The pleadings being defective in form, the cause was remanded to the circuit court. The result does not appear.

February, 1819, the "Estrella." Curtis, vol. iv, page 406.

*Judgment.*—In the absence of any act of Congress on the subject, the courts of the United States would have authority, under the general law of nations, to decree restitution of property captured in violation of their neutrality.

Vessel and cargo restored with costs.

February, 1820, "La Amistad de Rues." Ibid., vol. iv, page 673.

*Judgment.*—In cases of violation of our neutrality by any of the belligerents, if the prize comes voluntarily within our territory, it is restored to the original owners by our courts. But their jurisdiction for this purpose under the law of nations extends only to restitution of the specific property, with costs and expenses during the pendency of the suit, and does not extend to the infliction of vindictive damages or compensation for plunderage, as in ordinary cases of marine torts.

* Mr. Bemis, in his pamphlet on "American Neutrality," published at Boston in 1866, remarks: "To my own appreciation both of these 'bonding' clauses, as they are called, had most of their neutral virtue taken out of them when Congress made them applicable.—(1.) To 'vessels belonging wholly or in part to *citizens of the United States*,' thereby leaving *foreigners* at liberty to clear unneutrally armed ships, (see project of the act, Ann. Cong. 1816–'17, p. 477, sec. 1; (2.) When they limited the bond so as only to prevent '*such owners*' from cruising or committing hostilities, instead of making the bond guard against belligerent employment of the vessel by '*any person to whom they* (such owners) *may sell or pretend to sell such vessel*.' (Ann. Cong. 1816–17, p. 478, sec. 2;) and (3.) by requiring that any vessel to be subject to detention must have on board 'a cargo principally consisting of arms and munitions of war,' thus letting go at large a vessel armed to the teeth, and 'manifestly built for warlike purposes,' provided she adopts the precaution of taking *no such cargo* with her, and *is owned by foreigners*."

In delivering judgment, Chief Justice Story observed: "We entirely disclaim any right to inflict such damages, and consider it no part of the duty of a neutral nation to interpose, upon the mere footing of the law of nations, to settle all the rights and wrongs which may grow out of a capture between belligerents. Strictly speaking, there can be no such thing as a marine tort between the belligerents. Each has an undoubted right to exercise all the rights of war against the other, and it cannot be a matter of judicial complaint that they are exercised with severity, even if the parties do transcend those rules which the customary laws of war justify. At least, they have never been held within the cognizance of the prize tribunals of neutral nations. The captors are amenable to their own government exclusively for any excess or irregularity in their proceedings, and a neutral nation ought no otherwise to interfere than to prevent captors from obtaining any unjust advantage by a violation of its neutral jurisdiction. Neutral nations may, indeed, inflict pecuniary or other penalties on the parties for any such violation; but it then does it professedly, in vindication of its own rights, and not by way of compensation to the captured. When called upon by either of the belligerents to act in such cases, all that justice seems to require is that the neutral nation should fairly execute its own laws and give no asylum to the property unjustly captured. It is bound, therefore, to restore the property if found within its own ports; but beyond this it is not obliged to interpose between the belligerents. If, indeed, it were otherwise, there would be no end to the difficulties and embarrasments of neutral prize tribunals. They would be compelled to decide, in every variety of shape, upon marine trespasses *in rem* and *in personam* between belligerents, without possessing adequate means of ascertaining the real facts, or of compelling the attendance of foreign witnesses, and thus they would draw within their jurisdiction almost every incident of prize. Such a course of things would necessarily create irritations and animosities, and very soon embark neutral nations in all the controversies and hostilities of the conflicting parties. Considerations of public policy came, therefore, in aid of what we consider the law of nations in this subject, and we may add that Congress in his legislation has never passed the limit which is here marked out."

The action was brought on appeal from the district court, which had ordered restitution and awarded damages against the captors on the ground of an illegal augmentation of force at New Orleans. The claimants having failed to prove such an augmentation of force before the Supreme Court, the sentence of the district court was reversed, and the prize restored to the captor (the Venezuelan privateer La Guerrière) and the damages disallowed, as stated above.

Curtis, vol. v, page 269.

February, 1822. The "Santissima Trinidad" and the "St. Ander."

This was a claim preferred by the Spanish consul, as representing the Spanish owners, for "eighty-nine bales of cochineal, two bales of jalap, and one box of vanilla, originally constituting part of the cargoes of the Spanish ships Santissima Trinidad and St. Ander, and alleged to have been unlawfully and piratically taken out of those vessels on the high seas, by a squadron consisting of two armed vessels, called the Independencia del Sud and the Altravida, and manned and commanded by persons assuming themselves to be citizens of the United Provinces of the Rio de la Plata."

Chief Justice Story thus stated the case as regarded the Independencia: "She was originally built and equipped at Baltimore as a privateer during the late war with Great Britain, and was then rigged as a schooner and called the Mammoth, and sailed against the enemy. After the peace she was rigged as a schooner and sold by her original owners. In January, 1816, she was loaded with a cargo of munitions of war by her new owners, (who are inhabitants of Baltimore,) and being armed with 12 guns, constituting a part of her original armament. She was dispatched from that port under the command of the claimant on a voyage, ostensibly to the northwest coast, but in reality to Buenos Ayres. By the written restrictions given to the supercargo on this voyage, he was authorized to sell the vessel to the government of Buenos Ayres if he could obtain a suitable price. She duly arrived at Buenos Ayres, having exercised no act of hostility, but sailed under the protection of the American flag during the voyage. At Buenos Ayres the vessel was sold to Captain Chaytor and two other persons; and soon afterwards she assumed the flag and character of a public ship, and was understood by the crew to have been sold to the government of Buenos Ayres; and Captain Chaytor made known these facts to the crew, and asserted that he had become a citizen of Buenos Ayres, and had received a commission to command the vessel as a national ship, and invited the crew to enlist in the service, and the greater part of them accordingly enlisted. From this period, which was in May, 1816, the public functionaries of our own and other foreign governments at that port considered the vessel as a public ship of war, and such was her avowed character and reputation. No bill of sale of the vessel to the government of Buenos Ayres is produced, and a question has been made, principally from this defect in the evidence, whether her character as a public ship is established. It is not understood that any doubt is expressed as to the genuineness of Captain Chaytor's commission, nor as to the competency of the other proofs in the cause introduced to corroborate it. The only point is, whether, supposing them true, they

afford satisfactory evidence of her public character. We are of opinion that they do. In general, the commission of a public ship, signed by the proper authorities of the nation to which she belongs, is complete proof of her national character. * * * The commission of a public ship when duly authenticated, so far at least as foreign courts are concerned, imports absolute verity and the title is not examinable. * * *

"There is another objection urged against the admission of this vessel to the privileges and immunities of a public ship. * * * * It is that Buenos Ayres has not yet been acknowledged as a sovereign independent government by the executive or legislature of the United States, and therefore is not entitled to have her ships of war recognized by our courts as national ships. We have in former cases had occasion to express our opinion on this point. The government of the United States has recognized the existence of a civil war between Spain and her colonies, and has avowed a determination to remain neutral between the parties, and to allow to each the same right of asylum and intercourse. Each party is therefore deemed by us a belligerent nation, having, so far as concerns us, the sovereign rights of war, and entitled to be respected in the exercise of those rights. * * * * * *

"The next question growing out of this record is, whether the property in question was captured in violation of our neutrality, so that restitution ought, by the law of nations, to be decreed to the belligerents. Two grounds are relied upon to justify restitution: 1. That the Independencia and Altravida were originally equipped, armed and manned as vessels of war in our ports. 2. That there was an illegal augmentation of the force of the Independencia within our ports. * * * *

"The question as to the original illegal armament and outfit of the Independencia may be dismissed in a few words. It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure, contraband indeed, but in no shape violating our laws or our national neutrality. If captured by a Spanish ship of war during the voyage, she would have been justly condemnable as good prize for being engaged in a traffic prohibited by the law of nations. But there is nothing in our laws, or in the law of nations, that forbids our citizens from sending armed vessels, as well as munitions of war, to foreign parts for sale. It is a commercial venture, which no nation is bound to prohibit, and which only exposes the persons engaged in it to the penalty of confiscation. Supposing, therefore, the voyage to have been for commercial purposes, and the sale at Buenos Ayres to have been a *bona fide* sale, (and there is nothing in the evidence before us to contradict it,) there is no pretense to say that the original outfit in the voyage was illegal, or that a capture made after the sale, for that cause alone, invalid."

On the second point, the court found that there had been a subsequent illegal augmentation of force both of the Independencia and of the Altravida, and on this ground the prize was ordered to be restored to the Spanish claimants.

February, 1822.—The "Gran Para."

*Judgment.*—It is firmly settled that if captures are made by vessels which have violated our neutrality acts, the property may be restored if brought within our territory. Curtis, vol. v, page 302.

A vessel armed and manned in one of our ports and sailing thence to a belligerent port, with the intent thence to depart on a cruise with the crew and armament obtained here, and so departing, and capturing belligerent property, violates our neutrality laws, and her prizes coming within our jurisdiction will be restored.

A *bona fide* termination of the cruise for which the illegal armament was here obtained puts an end to the disability growing out of the violation of our neutrality laws, which does not attach indefinitely, but a colorable termination has no such effect.

The prize, bullion taken out of the Portuguese vessel Gran Para, and brought to Baltimore in September, 1818, in the capturing privateer Irresistible, sailing under the Artigan flag, was restored to the Portuguese claimants, with costs.

February, 1823. "La Nereyda."

This was an action brought by the Spanish consul for the recovery of the brig Nereyda. Curtis, vol. v, page 374.

The Nereyda was a Spanish ship of war, captured in 1818 by the privateer Irresistible, of which John Daniels was the commander and Henry Childs lieutenant, and which had been illegally equipped at Baltimore. The Nereyda was carried to the island of Margaritta under the command of Childs as prize master. It was alleged that at Margaritta the Nereyda was condemned as prize, and sold to one Franchesche; but no proof of the sale was adduced; and it appeared that during the short time she remained at Margaritta she was under the control of Childs, who obtained a commission as a privateer for her from the Venezuelan government, changed her name to the El Congresso de Venezuela, and sailed back in her to the United States, where she was eventually libelled at Baltimore.

Childs opposed the claim of the Spanish consul by a counter-claim on behalf of the alleged purchaser, Franchesche.

The case was brought up on appeal from the district court. Time was allowed to the respondent to produce a copy of the judgment of the Margaritta prize court, and also to show that the sale there was a real one, and Franchesche a *bona fide* purchaser.

Childs failed to produce this evidence, and it having been shown that although four years had elapsed since the pretended sale, Franchesche had never asserted any rights over the vessel, which had continued in the possession of Childs and Daniels since the capture, the decree of the district court was reversed, and the vessel restored to the Spanish consul.

Curtis, vol. x, page 189. United States *vs.* Quincy, January, 1832.

The question before the court was as to the instructions which ought to have been given to the jury of the circuit court for the Maryland district in a prosecution against John D. Quincy for a violation of the act of 1818.

In December, 1828, the Bolivar, a small vessel of 70 tons, sailed for Baltimore from St. Thomas under the command of Quincy, with her owner, Armstrong, on board. At St. Thomas, Armstrong fitted her out as a privateer under the name of Las Damas Argentinas, to cruise under the Buenos Ayres flag against Brazil. Quincy continued to command her and made some prizes. He afterwards returned to the United States, and the prosecution in question was instituted against him for being concerned in fitting out the Bolivar.

*Judgment.*—"It is not necessary that the jury should believe or find that the Bolivar, when she left Baltimore and when she arrived at St. Thomas, and during the voyage from Baltimore to St. Thomas, was armed, or in a condition to commit hostilities, in order to find the defendant guilty of the offense charged in the indictment.

"The first instruction, therefore, prayed on the part of the defendant must be denied, and that on the part of the United States given.

"The second and third instructions asked on the part of the defendant were:

"That if the jury believe that when the Bolivar was fitted and equipped at Baltimore the owner and equipper intended to go to the West Indies in search of funds with which to arm and equip the said vessel, and had no present intention of using or employing the said vessel as a privateer, but intended, when he equipped her, to go to the West Indies to endeavor to raise funds to prepare her for a cruise, then the defendant is not guilty.

"Or if the jury believe that when the Bolivar was equipped at Baltimore, and when she left the United States, the equipper had no fixed intention to employ her as a privateer, but had a wish so to employ her, the fulfillment of which wish depended on his ability to obtain funds in the West Indies for the purpose of arming and preparing her for war, then the defendant is not guilty.

"We think these instructions ought to be given. The offense consists principally in the intention with which the preparations were made. These preparations, according to the very terms of the act, must be made within the limits of the United States, and it is equally necessary that the intention with respect to the employment of the vessel should be formed before she leaves the United States. And this must be a fixed intention, not conditional or contingent, depending on some future arrangements. This intention is a question belonging exclusively to the jury to decide. It is the material point on which the legality or criminality of the act must turn, and decides whether the adventure is of a commercial or warlike character.

"The law does not prohibit armed vessels belonging to citizens of the United States from sailing out of our ports; it only requires the owner to give security (as was done in the present case) that such vessels shall not be employed by them to commit hostilities against foreign powers at peace with the United States.

"The collectors are not authorized to detain vessels, although manifestly built for warlike purposes, and about to depart from the United States, unless circumstances shall render it probable that such vessels are intended to be employed by the owner to commit hostilities against some foreign power at peace with the United States.

"All the latitude, therefore, necessary for commercial purposes, is given to our citizens, and they are restrained only from such acts as are calculated to involve the country in war."

Other cases might be quoted, but it is only intended to convey a general idea of the ruling of the United States courts in carrying out the neutrality laws. There does not appear to have occurred, either during the French war or the South American war, any case similar to the Alabama, where the vessel was dispatched to an unoccupied island, and there met by another vessel bringing her armament and crew. This no doubt is owing in some measure to the difficulty there might have been in carrying out such a project with sailing vessels.

Parliamentary Papers, "North America, No. 1, 1861," &c.

The Spanish and Portuguese claims, arising out of the system of privateering pursued by American citizens under the flags of the revolted colonies, have recently been so fully discussed in the communications between Lord Russell and Mr. Adams, respecting the Alabama and Shenandoah cases, that a short account of the correspondence will probably be sufficient for the purposes of the present memorandum.

The treaty between Spain and the United States of America of the 27th of October, 1795, contained the following stipulation:

"ARTICLE XIV. No subject of his Catholic Majesty shall apply for or take any com-

mission or letters of marque for arming any ship or ships to act as privateers against the said United States, or against the said citizens, people or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any prince or state with which the United States shall be at war.

"Nor shall any citizen, subject, or inhabitant of the said United States apply for, or take any commission or letters of marque for arming any ships to act as privateers against the subjects of his Catholic Majesty, or the property of any of them, from any prince or state with which the said King shall be at war. And if any person of either nation shall take such commissions or letters of marque, he shall be punished as a pirate."

When diplomatic relations between Spain and the United States, which had been suspended in 1808, were renewed in 1815, the Spanish minister addressed a note to the Secretary of State containing proposals as the basis of negotiation for the settlement of the various differences in dispute between the two countries.

The Chevalier de Onis mentions as one of the points on which an understanding was urgent, "That the President will be pleased to give the necessary orders to the collectors of customs not to admit into the ports of the United States vessels under the insurrectionary flag of Carthagena, of the Mexican Congress of Buenos Ayres, or of the other places which have revolted against the authority of the King, my master, nor those coming from them, that they should not permit them to land, or to sell in this country the shameful proceeds of their piracy or atrocities, and much less to equip themselves in these ports, as they do, for the purpose of going to sea to destroy and to plunder the vessels which they may meet with under the Spanish flag. This tolerance, subversive of the most solemn stipulations in the treaties between Spain and the United States, and diametrically opposed to the general principles of public security and good faith, and to the laws of nations, produces the most melancholy effects on the interest and the prosperity of the subjects of his Catholic Majesty. Certain it is that neither Carthagena nor any other place in the Spanish dominions in this hemisphere, which has revolted, can be in communication with any power friendly to Spain, since neither on its part, nor on that of any other government, has their independence been acknowledged; and it is, consequently, an offense against the dignity of the Spanish monarchy, and against the sovereignty of the King, my master, to admit vessels from such places, manned and commanded by insurgents, and armed in the dominions of this confederation, particularly as they are all pirates who do not respect any flag, are justly considered the disgrace of the seas, and are execrated by all nations." (The Chevalier de Onis to the Secretary of State, December 30, 1815.)

American State Papers, vol. iv, p. 423. British State Papers, vol. iii, p. 109.

Mr. Monroe replied, "With regard to your third demand, the exclusion of the flag of the revolting provinces, I have to observe that, in consequence of the unsettled state of many countries, and repeated changes of the ruling authority in each, there being at the same time several competitors, and each party bearing his appropriate flag, the President thought it proper, some time past, to give orders to the collectors not to make the flag of any vessel a criterion or condition of its admission into the ports of the United States." And he added: "What will be the final result of the civil war which prevails between Spain and the Spanish provinces in America is beyond the reach of human foresight. It has already existed many years, and with various success, sometimes one party prevailing and then the other. In some of the provinces the success of the revolutionists appears to have given to their cause more stability than in others. All that your government had a right to claim of the United States was that they should not interfere in the contest, or promote, by any active service, the success of the revolution, admitting that they continued to overlook the injuries received from Spain, and remained at peace. This right was common to the colonists. With equal justice might they claim that we would not interfere to their disadvantage; that our ports should remain open to both parties, as they were before the commencement of the struggle; that our laws regulating commerce with foreign nations should not be changed to their injury. On these principles the United States have acted." (Mr. Monroe to the Chevalier de Onis, January 19, 1816.)

American State Papers, vol. iv, p. 426. British State Papers, vol. iii, p. 119.

On the 10th of June, 1816, Mr. Monroe forwarded to the Chevalier de Onis a copy of a report from Mr. Dick, attorney of the United States for the district of Louisiana, dated March 1, 1816, denying the chevalier's allegations of the open enlistment of men and equipment of expeditions to serve against Spain. "A regard to truth makes it necessary to say that what is alleged respecting the arming and fitting out of vessels within the waters of Louisiana, to be employed in the service of the revolutionary governments against the subjects or property of the King of Spain, is unfounded. At no period since the commencement of the struggle between the Spanish colonies and the mother country have vessels, to be employed in the service, of the colonies, been permitted to fit out and arm or to augment their force at New Orleans or elsewhere within the State of Louisiana.

American State Papers, vol. iv, p. 431.

"On the contrary, it is notorious that at no one point of duty have the civil and mili-

tary authorities of the United States directed more strenuously, or it is believed, more successfully, their attention than to the discovering and suppression of all attempts to violate the laws in these respects. Attempts to violate them by fitting out and arming and by augmenting the force of vessels have no doubt been frequent, but certainly in no instance successful, except where conducted under circumstances of concealment that eluded discovery and almost suspicion, or where carried on at some remote point of the coast beyond the reach of detection or discovery. In every instance where it was known that these illegal acts were attempting, or where it was afterwards discovered that they had been committed, the persons engaged, as far as they were known, have been prosecuted, while the vessels fitted out, or attempted to be fitted out, have been seized and libeled under the act of the 5th of June, 1794; and when captures have been made by vessels thus fitted out and armed, or in which their force was augmented or increased within our waters, where the property taken was brought within our jurisdiction, or even found upon the high seas by our cruisers and brought in, it has been restored to the original Spanish owners, and, in some instances, damages awarded against the captors."

Mr. Dick appended a list, showing that during the year 1815 seven persons had been prosecuted and six vessels libeled under the act of 1796, (of which three were condemned,) and prizes restored to the Spanish claimants in nine cases.

It does not appear, however, that the measures adopted by the officers of the United States government, referred to by Mr. Dick, were efficacious in preventing violations of the foreign enlistment act to the satisfaction of the Spanish minister, for on the 2d of January, 1817, he addressed a further representation to the Secretary of State: "The mischiefs resulting from the toleration of the armament of privateers in the ports of this Union, and of bringing into them, with impunity, the plunder made by these privateers on the Spanish trade, for the purpose of distributing it amongst those merchants who have no scruple in engaging in these piracies, have arisen to such a height that I should be wanting in my duty if I omitted to call your attention again to this very important subject. It is notorious, that although the speculative system of fitting out privateers, and putting them under a foreign flag, one disavowed by all nations, for the purpose of destroying the Spanish commerce, has been more or less pursued in all the ports of the Union, it is more especially in those of New Orleans and Baltimore, where the greatest violations of the respect due to a friendly nation, and, if I may say so, of that due to themselves, have been committed; whole squadrons of pirates having been sent out from thence, in violation of the solemn treaty existing between the two nations, and bringing back to them the fruits of their piracies, without being yet checked in these courses, either by the reclamations I have made, those of his Majesty's consuls, or the decisive and judicious orders issued by the President for that purpose." M. de Onis complains in this note of the proceedings of several privateers at Baltimore, New York, Norfolk, and New Orleans.

British State Papers, vol. v, p. 365.

No answer seems to have been returned to M. de Onis's note.

British State Papers, vol. v, pp. 368-379.

In January, February, and March, M. de Onis sent in 12 other notes in the same strain, and on the 28th of March the acting Secretary of State informed him that inquiry would be made and "adequate redress and punishment enforced, should it appear that the laws have been infringed by any of the acts complained of."

State Papers, vol. v, pp. 380-397.

Five more notes from M. de Onis followed, principally complaining of the captures effected by the Independencia del Sud and Altravida, (see case of Santissima Trinidad,) and the asylum afforded to those vessels as well as to the Congress, Mongore, and other privateers in American ports.

Ibid., p. 398.

On the 22d of April the acting Secretary of State inquired whether M. de Onis had power to conclude a treaty, as, if not, it was "deemed improper to entertain discussions of the kind invited by" his late notes.

Ibid., pp. 398-415.

M. de Onis continued his representations in eight more notes, in one of which, addressed to Mr. J. Q. Adams, dated the 2d of November, 1817, he says: "It is very disagreeable to me to have to repeat to you, sir, what unfortunately I have been several times under the necessity of submitting to the President through the medium of your predecessors; namely, that the act of Congress of the 3d of March, 1817, has in nowise lessened the abuses by which the laws are evaded, and render entirely illusory the laudable purposes for which they were enacted. From the greater part of the ports of these States there frequently sail a considerable number of vessels, with the premeditated intention of attacking the Spanish commerce, which carry their armament concealed in the hold. It rarely happens that they can be arrested, inasmuch as the collectors of customs say that they have not at their disposition the naval force necessary to effect it; on the other hand, armed vessels, under the flag of the insurgents, enter into the ports of the Union, and not only supply themselves with all necessaries, but also considerably increase the means they already have of destroying the trade of Spain, as has recently been the case at New York, whereby the (so-called) privateers of his Majesty's revolted provinces, which are in reality nothing more than pirates, manned by the scum of all coun-

American State Papers, vol. iv, p. 199.

tries, enjoy greater privileges than the vessels of independent powers." In May, 1818, M. de Onis, referring to a French expedition prepared at Philadelphia under General Lallemand, and which was supposed to be intended to operate against Mexico, stated to Mr. Adams, "I would have considered myself dispensed from the necessity of again pressing this subject on your attention if it had appeared possible for me to restrain these armaments by the employment of judicial means; but unfortunately the act of Congress of the 20th of April last, for preserving neutrality with foreign nations, and others already in force, although highly judicious, are easily eluded; and although these practices are public and notorious throughout the whole Union, his Majesty's consuls advise me that through a deficiency of evidence they cannot be restrained by a regular application of the law." (The Chevalier de Onis to Mr. Adams, May 7, 1818.)

British State Papers, vol. vi, p. 225.

On the 9th of June, 1818, M. de Onis represented that there were then at Baltimore four privateers—the Independencia del Sud, the Mongore, the Republicano, and the Alerta, three of which were notoriously fitted out there, and the fourth was a schooner captured from Spanish owners. All these vessels were commanded by Americans, and manned, with scarcely an exception, by American crews; that, however clear the facts might be to everybody, it was in vain to seek evidence to prove them, "as a great portion of the commercial people of Baltimore being interested in the cases which produce my present reclamations, no one is willing to come forward and offer testimony against what is termed the general interest."

British State Papers, vol. vi, p. 236.

M. de Onis continued his complaints during the summer of 1818, and called attention particularly to the purchase and equipment of two privateers at New York.

Mr. Adams at length replied as follows:

Ibid., vol. vi, p. 262.

"I have received your letters of the 27th ultimo and 5th instant, with their respective inclosures, all of which have been laid before the President. With regard to the two vessels alleged to have been equipped at New York for the purpose of cruising under the flag of Buenos Ayres against Spanish subjects, the result of the examination which has taken place before a judge of the Supreme Court of the United States has doubtless convinced you that no prosecution commenced by the government of the United States against the persons charged with a violation of their laws and their neutrality could have been necessary or useful to you, no transgression of the law having been proved against them.

* * * * * * * * *

"I am further instructed by the President to assure you of the satisfaction with which he has seen, in the last paragraph of your letter, your expectation of being speedily enabled to make proposals containing the bases of a treaty which may adjust, to mutual satisfaction, all the existing differences between our two nations, and his earnest hope that this expectation, in the fulfillment of which this government have confided, and adopted measures corresponding with it, may be realized at an early day."

Negotiations were shortly afterwards set on foot for the conclusion of a treaty between the two countries, for the settlement of the differences which had so long existed between them, and among the proposals put forward by the Spanish government were a mutual renunciation of "all claims for damages or injuries which they themselves, or their respective subjects or citizens, may have suffered," and the adoption of such laws or measures as might be required "to remedy and cut up by the roots the abuses which, contrary to the law of nations, and contrary to what is expressly stipulated in the treaty of 1795, above cited, daily occur in some ports of this Union, in consequence of the vague and arbitrary interpretation which it seems the measures until now adopted are susceptible of, and by which means the law is eluded." (Mr. Adams to the Chevalier de Onis, October 24, 1818.)

M. de Onis to Mr. Adams, October 24, 1818. State Papers, vol. v, p. 265. Ibid., pp. 267-277.

The United States government assented to the mutual renunciation of claims, but refused the other proposal, as they considered there was no occasion for any new laws or declarations. "Of the many complaints which you have addressed to this government in relation to alleged transactions in our ports, the deficiency has been, not in the meaning or interpretation of the treaty, but in the proof of the facts which you have stated, or which have been reported to you, to bring the cases of complaint within the scope of the stipulations of the treaty." (Mr. Adams to M. de Onis, October 31, 1818.)

British State Papers, vol. vi, p. 281.

To this the Spanish minister rejoined:

"Whatever may be the forecast, wisdom, and justice conspicuous in the laws of the United States, it is universally notorious that a system of pillage and aggression has been organized in several ports of the Union against the vessels and property of the Spanish nation; and it is equally so, that all the legal suits hitherto instituted by his Catholic Majesty's consuls in the courts of their respective districts, for its prevention, or the recovery of the property when brought into this country, have been, and still are, completely unavailing. The artifices and evasions

British State Papers, vol. vi, p. 285.

by means of which the letter of the law has on these occasions been constantly eluded are sufficiently known, and even the combination of interests in persons who are well known, among whom are some holding public offices. With a view to afford you and the President more complete demonstration of the abuses, aggressions, and piracies alluded to, I inclose you correct lists, extracted from authentic documents deposited in the archives of this legation, exhibiting the number of privateers or pirates fitted out in the United States against Spain, and of the prizes brought by them into the Union, as well as of those sent to other ports, together with the result of the claims made by the Spanish consuls in the courts of this country. Among them you will find the case of two armed ships, the Horatio and Curiazo, built at New York, and detained by his Majesty's consul there on the ground of their having on board 30 pieces of cannon concealed, with their carriages, and a crew of 160 men. On which occasion it was pretended that it could not be proved that these guns were not an article of commerce, and they finally put to sea without them, the extraordinary number of officers and crew passing for passengers. The number of privateers or pirates fitted out or protected in the ports of this republic, as well as of the Spanish prizes made by them, far exceeds that contained in the within lists; but I only lay before your government those of which I have certain and satisfactory proofs. The right of Spain to an adequate indemnity for all the spoliations committed by these privateers or pirates on the Crown and subjects of his Catholic Majesty, is undeniable; but I now submit it to your government, only to point out the extreme necessity of putting an end to these continued acts of hostility and depredation, and of cutting short these enormous and flagrant abuses and evils, by the adoption of such effectual precautions and remedies as will put it out of the power of cupidity or ingenuity to defeat or elude them. In vain should we endeavor amicably to settle and accommodate all existing differences, and thus establish peace and good understanding between the two nations, if the practice of these abuses and the course of these hostilities and piracies on the commerce and navigation of Spain should, as heretofore, continue uninterrupted in the United States." (The Chevalier de Onis to Mr. Adams, November 16, 1818.)

State Papers, vol. vi, p. 291.

The Secretary of State, in reply, expressed the readiness of his government to continue the negotiations, provided the Spanish minister would consent to waive a certain portion of his proposition, (relating to the transactions in Florida and the western boundary,) but added, that if he did not feel at liberty to proceed with the negotiations on those terms, he (Mr. Adams) was ready to exchange with him the ratifications of the convention of 1802. (Mr. Adams to M. de Onis, November 30, 1818.)

On the 22d of February, 1819, a treaty of amity, settlement, and limits was concluded at Washington between the United States of America and his Catholic Majesty, and the following is a statement of the claims which each party consented to renounce:

State Papers, vol. viii, p. 530.

ARTICLE IX. "The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them reciprocally, renounce all claim for damages or injuries which they themselves, as with as their respective citizens and subjects, may have suffered until the time of signing this treaty.

"The renunciation of the United States will extend—

"1. To all the injuries mentioned in the convention of 11th August, 1802.

"2. To all claims on account of prizes made by French privateers and condemned by French consuls within the territory and jurisdiction of Spain.

"3. To all claims and indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

"4. To all claims of citizens of the United States upon the Spanish government, statements of which, soliciting the interposition of the government of the United States, have been presented to the Department of State, or to the minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty.

"The renunciation of his Catholic Majesty extends—

"1. To all the injuries mentioned in the convention of 11th August, 1802.

"2. To the sums which his Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

"3. To all injuries caused by the expedition of Miranda, which was fitted out and equipped at New York.

"*To all claims of Spanish subjects upon the government of the United States arising from unlawful seizures at sea or within the ports and territorial jurisdiction of the United States.*

"Finally, to all the claims of subjects of his Catholic Majesty upon the government of the United States, in which the interposition of his Catholic Majesty has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the department of foreign affairs of his Majesty or to his minister in the United States.

"And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

"The United States will cause satisfaction to be made for the injuries, if any, which by process of law shall be established to have been suffered by the Spanish officers and individual Spaniah inhabitants by the late operations of the American army in Florida."

This treaty concludes the published correspondence respecting the Spanish claims.

The correspondence between Portugal and the United States will be found in a convenient shape for reference in the appendix to the "Alabama" papers, republished by Messrs. Longmans, Green & Co., in 1867.

It was laid before Congress on the 4th of February, 1852, together with the correspondence relating to the claims of United States citizens in Portugal arising out of the case of the General Armstrong.

Executive Documents, House of Representatives, No. 53, 32d Congress, 1st session.

See also British State Papers, vol. 222. The following is the succinct account of this correspondence, given in Lord Russell's note to Mr. Adams of the 30th of August, 1865, (Parliamentary paper, North America, No. 1, 1866, p. 26.)

"The correspondence to which I refer began in December, 1816, and closed with a letter of the Portuguese minister in November, 1850. It cannot be pretended that the reclamations of a friendly power extending over 34 years did not receive the gravest attention of the American government.

"In his first letter, the Portuguese envoy at Washington complains that Mr. Taylor, of Baltimore, an American citizen, had directed Captain Fish, of the Romp, an American ship, to cruise as a privateer under the insurgent colors of Buenos Ayres against the subjects of Portugal.

"He adds, 'The 18th of last month (November) the frigate Clifton, Captain Davis, armed with 32 guns of various calibers, and a crew of 200 men, sailed from Baltimore for Buenos Ayres. This ship anchored below that port, where it has remained for about a fortnight or more waiting for the American ship Independence of the South, armed with 16 guns, and for the ships Romp, Tachahoe, Montezuma, and Spanker, and two others newly constructed, which were fitting with great activity and which had not yet got names. All were to sail together, to cruise in the eastern and western seas of South America, under the insurgent colors of Buenos Ayres. No doubt can be entertained of their instructions being the same as those of Captain Fish, and that they will act hostilely against Portuguese ships.'

"The Portuguese envoy, Joseph Correa de Serra, prays for an amendment of the law of the United States with a view to render it more efficient in such cases. A law having been passed by Congress for this purpose, the Portuguese envoy, in May, 1817, requests that the President will desire the United States officers on the outposts to use greater vigilance.

"In March, 1818, he complains that three Portuguese ships have been captured 'by privateers fitted in the United States, manned by American crews, and commanded by American captains, though under insurgent colors.'

"In October of the same year the Portuguese envoy complains that a Portuguese prize is fitting in the Patuxent, to cruise against Portuguese commerce.

"In November of the same year the Portuguese minister states to Mr. Adams that, obliged by his duty to inquire into the nature of the armed ships that had of late insulted the flag of his sovereign and committed incalculable depredations on the property of his subjects, he had found, to his sorrow, multiplied proofs that many of them were owned by citizens of the United States, and had been fitted in the ports of the Union. He goes on to complain of the difficulties in the way of prosecution, but compliments the President on his 'honorable earnestness.'

"In December of the same year the Portuguese minister complains of the armed vessel Irresistible, which had been committing 'depredations and unwarrantable outrages on the coast of Brazil.' He says, it is proved by depositions that John Daniels, the commander of the ship, is an American, and all the crew are Americans. He prays that, if the ship should come into an American port, means may be taken to bring the said captain and crew within reach of the laws made to punish such scandalous proceedings.

"In March, 1819, M. Correa de Serra states, as minister of his sovereign, that Artigas, whose flag is frequently waving in the port of Baltimore, and which is carried by Portuguese prizes in the ports of the Union, has been expelled far from the countries which could afford him the power of navigating, and has not a foot length of sea-shore in South America where he can show himself. He prays that the Artigan flag may be declared illegal.

"In November, 1819, after expressing his gratitude for the proceedings of the Executive, the same minister complains that the evil is rather increasing. He is in possession of a 'list of fifty Portuguese ships, almost all richly laden, some of them East Indiamen, which had been captured during a period of profound peace. One city alone

on the coast of the United States had 26 armed ships which preyed on Portuguese commerce, and a week ago three armed ships of this kind were in that port waiting for a favorable occasion for sailing on a cruise.'

"In June, 1820, the Portuguese minister complains that a Portuguese prize had been sold by auction at Baltimore to Captain Chase, (a notorious privateersman,) and was to be immediately fitted out as a privateer to cruise against the Portuguese Indiamen.

"In July of the same year, the Portuguese minister sends a list of 'the names and value of 19 Portuguese ships and their cargoes, taken by *private armed ships, fitted in the ports of the Union, by citizens of those States.*' His Sovereign wishes the affair to be treated with that candor and conciliating dignified spirit which becomes two powers who feel a mutual esteem and have a proper sense of their moral integrity. 'In this spirit I have the honor to propose to this government to appoint commissioners on their side, with full powers to confer and agree with his Majesty's ministers on what reason and justice demand.'

"In December, 1820, the Chevalier Amado Grehon transmitted to Mr. Adams a copy of 12 claims, with the value of the ships, desiring him to add them to the list furnished by the Chevalier Correa de Serra.

"In April, 1822, the same minister repeats the proposal made in July, 1820, 'of having recourse to commissaries chosen by both governments for the purpose of arranging the indemnities justly due to Portuguese citizens for the damage which they have sustained by reason of piracies supported by the capital and the means of citizens of the United States; an essential condition which, in this way repairing the past, secures also the future.'

"On the 25th of May, 1850, the chargé d'affaires of Portugal, writing to the Secretary of State of the United States, declares, 'The undersigned is authorized to come to an understanding with the new Secretary of State upon the subject, and to submit the voluminous documents and papers in his possession to the joint examination and decision of the commissioners or arbitrators appointed by the American government on the one part, and the undersigned on behalf of her Majesty's government on the other,' &c.

"Having thus related the complaints of the Portuguese government during the years which elapsed from 1816 to 1822, and from 1822 to 1850, I will now give from the organs of the United States the answers which that government gave to these solemn and reiterated complaints.

"In March, 1817, the Secretary of State transmitted to the Portuguese minister at Washington an act of Congress, passed on the 3d of that month, to preserve more effectually the neutral relations of the United States. On the 14th of March, 1818, in answer to a letter complaining of the capture of three Portuguese ships by privateers, Mr. Adams says:

"'The government of the United States having used all the means in its power to prevent the fitting out and arming of vessels in their ports to cruise against any nation with whom they are at peace, and having faithfully carried into execution the laws enacted to preserve inviolate the neutral and pacific obligations of this Union, cannot consider itself bound to indemnify individual foreigners for losses by captures, over which the United States have neither control nor jurisdiction. For such events no nation can in principle, nor does in practice, hold itself responsible. A decisive reason for this, if there were no other, is the inability to provide a tribunal before which the facts can be proved.

"'The documents to which you refer must of course be *ex parte* statements, which in Portugal or in Brazil, as well as in this country, could only serve as a foundation for actions in damages, or for the prosecution and trial of the persons supposed to have committed the depredations and outrages alleged in them. Should the parties come within the jurisdiction of the United States, there are courts of admiralty competent to ascertain the facts upon litigation between them, to punish the outrages which may be duly proved, and to restore the property to its rightful owners should it also be brought within our jurisdiction, and found, upon judicial inquiry, to have been taken in the manner represented by your letter. By the universal law of nations the obligations of the American government extend no further.'

"The Secretary of State in subsequent letters promises to prosecute in the United States courts persons chargeable with a violation of the laws of the United States in fitting out and arming a vessel within the United States for the purpose of cruising against the subjects of the Queen of Portugal.

"To the proposal to appoint commissioners, made in July, 1820, the United States Secretary of State, on the 30th of September of the same year, replies as follows:

"'The proposal contained in your note of the 16th of July last has been considered by the President of the United States with all the deliberation due to the friendly relations subsisting between the United States and Portugal, and with the disposition to manifest the undeviating principle of justice by which this government is animated in its intercourse with all foreign governments, and particularly with yours. I am directed by him to inform you that the appointment of commissioners to confer and agree

with the ministers of his most faithful Majesty upon the subject to which your letter relates, would not be consistent either with the Constitution of the United States *nor with any practice usual among civilised nations.*'

"He proceeds to say:

"'If any Portuguese subject has suffered wrong by the act of any citizen of the United States within their jurisdiction, it is before those tribunals that the remedy is to be sought and obtained. For any acts of citizens of the United States committed out of their jurisdiction and beyond their control, the government of the United States is not responsible.

"'To the war in South America, to which Portugal has for several years been a party, the duty and the policy of the United States has been to observe a perfect and impartial neutrality.'

"The same reply is again given to Chevalier Amado Grehon in a letter dated the 30th of April, 1822:

"'I am at the same time directed to state that the proposition of the Chevalier Correa de Serra, in his note of the 16th of July, 1820, for the appointment of commissaries chosen by both governments to arrange indemnities claimed by Portuguese citizens for damages stated by them to have been sustained by reason of piracies supported by the capital and means of citizens of the United States, cannot be acceded to. It is a principle well known and well understood that no nation is responsible to another for the acts of its citizens, committed without its jurisdiction and out of the reach of its control.'

"The policy of the United States is further explained in a dispatch of Mr. Secretary Adams to General Dearborn, dated the 25th of June, 1822. It is there set forth that in the critical state of the relations of the two countries it is necessary to employ the agency of a person fully qualified to represent the interests of the United States. It is affirmed that whenever Portuguese captured vessels have been brought within the jurisdiction of the United States, decrees of restitution have been pronounced.

"In referring, however, to the list of captures, and the demand of a joint commission to determine and assess the damages to be paid by the United States, the former refusal was thus repeated: 'As there was no precedent for the appointment of such a commission under such circumstances, and as not a single capture had been alleged for which the United States were justly responsible, this proposal was of course denied; and nothing further was heard upon the subject until the 1st of April last, when a note was received from the present chargé d'affaires of Portugal, leading to a correspondence, copies of which are now furnished you.'

"The correspondence seems not to have been resumed till 1850, when, as has been shown, the demand for a commission was repeated.

The Secretary of State of the United States thereupon gave this summary and final answer, dated May 30, 1850:

"'The undersigned is surprised at the reappearance of these absolute reclamations, accompanied by the renewal of the ancient proposition to appoint a joint commission to determine and assess damages, a proposition which was rejected at the time upon substantial grounds; and without the minister's assurance to that effect, the undersigned would not have supposed it credible that Portugal seriously cherished any intention to revive them. In reply, therefore, to the note which the minister of her most faithful Majesty has presented in the name of his government, the undersigned must now, by the President's order, inform him that he declines reopening the proffered discussion.'

"This dispatch is signed 'John M. Clayton.'

"A long and able dispatch of the Portuguese minister at Washington, recapitulating all the grievances of Portugal, dated November 7, 1850, does not appear to have received an answer."

After the close of the war between Spain and Portugal, Brazil and the South American provinces, the foreign enlistment act seems not to have been called into requisition in any prominent case until 1848, when the United States prohibited a ship of war, purchased for the German fleet during the war with Denmark, from sailing from New York except under the bond required by the act of 1818.

In 1850 a remarkable instance was afforded of the manner in which the foreign enlistment act could openly be defied, when the sympathies of the American people were in favor of the offenders, in the expedition against Cuba under Lopez.

Lopez had been for some time preparing an expedition for the invasion of Cuba, and on the 7th of May, 1850, left New Orleans in a steamer with about 500 men, accompanied by two other vessels, and on the 17th landed at Cardenas, a small town on the northwest side of the island. Lopez occupied the town; but shortly afterwards troops arrived from Havana, and he was compelled to re-embark, and escaped to Savannah. Annual Register, 1850.

On the 27th of May Lopez was arrested, (see Judge Betts's charge in the Times of the 13th of June, 1850,) but "no delay being granted by the district judge to procure evidence against him, he was discharged, Memoir of Lopez in the New York Herald, quoted in

the Chronicle of the 23d of September, 1851.

amid the cheers of a large crowd. On the 15th of July, 42 of the country prisoners (passengers) were liberated by the Spanish authorities, and were taken to Pensacola by the United States ship Albany. Ten of them were retained for trial. On the 21st of July the grand jury of the United States district court at New Orleans found a true bill against Lopez and 15 others for violating the act of 1818. The government failed in making out its case against one or two of the parties, and finally abandoned the prosecution."

President's message, December 1, 1851. Annual Register, 1851.

Undeterred by the failure of the first expedition, Lopez at once set to work to organize another, in which he was "countenanced, aided, and joined by citizens of the United States." * * * "Very early in the morning of the 3d of August, 1851, a steamer called the Pampero departed from New Orleans for Cuba, having on board upwards of 400 armed men, with evident intentions to make war upon the authorities of that island." The United States government having received intelligence that such designs were entertained, had issued a proclamation warning American citizens of their unlawful character, and had also given instructions to the proper officers of the United States. However, in spite of these measures, the steamer in which the fillibusters were embarked "left New Orleans stealthily and without a clearance, and, after touching at Key West, proceeded to the coast of Cuba."

The expedition landed in Cuba on the 12th of August, and proved an entire failure. The Spanish troops defeated the invaders without difficulty, and either took prisoner or dispersed the whole body. Fifty of the prisoners were shot, and Lopez publicly executed at Havana. The intelligence of the execution of Lopez and the prisoners, 40 of whom are stated to have been Americans, produced a great excitement in the United States. A riot took place at New Orleans, in which the Spanish consulate was sacked; mass meetings were held at the principal cities for the purpose of denouncing the conduct of the Cuban authorities, and further expeditions projected. The Spanish government, however, released and sent back to the United States a number of prisoners, who complained bitterly of having been deceived by Lopez by exaggerated accounts of the condition of affairs in Cuba; and the public feeling in the United States gradually cooled down, without any more attempts being made against the island.

In 1855 the Maury was detained at New York on the information of her Majesty's consul that she was intended for a Russian privateer. The evidence, however, failed, and Sir Joseph Crampton, her Majesty's minister, withdrawing the charge against her, the Maury sailed, and nothing more was heard of the matter. It was supposed that she really was intended for a privateer to act in the China seas, but that the peace of 1856 prevented her from being thus used.

The expeditions of Miranda in 1806, and of Lopez in 1850 and 1851, were rivaled in flagrant violation of the foreign enlistment act by the proceedings of Walker and the Central American fillibusters in 1857, 1858, 1859.

The disturbed state of the Central American republics, especially Nicaragua, rendered them a tempting prey to such adventurers, and in November, 1857, it was notorious that Walker was fitting out a fillibustering expedition.

On the 10th of that month he was arrested at New Orleans and held to bail in $2,000 (about £400) to appear on the 11th for examination, on a charge of infringing the act of 1818. On the morning of the 11th, however, he embarked with 300 unarmed followers for Mobile, where the party were met by a steamer called the Fashion, with 50 recruits on board, and set sail, as was supposed, for Central America. The United States government gave orders for them to be pursued, and Commodore Paulding succeeded in arresting Walker.

Parliamentary Paper correspondence respecting Central America, 1856–60. Presented 1860, page 67.

In reporting these occurrences, Lord Napier, then her Majesty's minister at Washington, states, "I believe that the President and General Cass sincerely deprecate and regret the present attempt to invade the peace of Central America." (Lord Napier to the Earl of Clarendon, November 16, 1857.)

It does not appear whether Walker was brought to trial for this offense, but if so the proceedings could not have been very efficacious, as in the following year he renewed his preparations for an expedition on a larger scale, and on the 30th of October, 1858, President Buchanan issued a proclamation: "Whereas information has reached me, from sources which I cannot disregard, that certain persons, in violation of the neutrality laws of the United States, are making a third attempt to set on foot a military expedition within their territory against Nicaragua, a foreign state with which they are at peace." * * * "From these circumstances the inference is irresistible that persons engaged in this expedition will leave the United States with hostile purposes against Nicaragua. They cannot, under the guise which they have assumed that they are peaceful emigrants, conceal their real intentions, and especially when they know, in advance, that their landing will be resisted, and can only be accomplished by an overpowering force. This expedient was successfully resorted to previous to the last expedition, and the vessel in which those composing it were conveyed to Nicaragua obtained a clearance from the collector of the

Ibid., p. 136.

port of Mobile. Although, after a careful examination, no arms or munitions of war were discovered, yet, when they arrived in Nicaragua, they were found to be armed and equipped, and immediately commenced hostilities.

"The leaders of former illegal expeditions of the same character have openly expressed their intention to renew hostilities against Nicaragua One of them, who has already been twice expelled from Nicaragua, has invited, through the public newspapers, American citizens to emigrate to that republic, and has designated Mobile as the place of rendezvous and departure, and San Juan del Norte as the port to which they are bound. This person, who has renounced his allegiance to the United States, and claims to be President of Nicaragua, has given notice to the master of the port of Mobile that 200 or 300 of these emigrants will be prepared to embark from that port about the middle of November," &c., &c.

Notwithstanding this proclamation, the fillibusters succeeded in sailing from Mobile on the 7th of December, 1858, in the "Susan," without a clearance. A revenue cutter attempted to stop her, but was forcibly resisted. Two other vessels, the "Fashion" and the "Washington," with military stores, afterwards joined the "Susan," but the expedition broke down in consequence of the "Susan" being wrecked. Walker and his followers then proceeded to California by the Isthmus of Panama, whence they intended to make a descent on Punta Arenas. Ibid., p. 163.

This attempt was not carried into execution, and Walker returned to Louisiana and organized a further expedition. The United States government gave directions to stop it, and concerted measures with the British and French governments to prevent any such expeditions landing on the coasts of Central America. Moreover, 150 of the men concerned in the last attempt were arrested at New Orleans.

Nevertheless, Walker eluded the vigilance of the authorities, and again escaped without a clearance in the "Fashion" from Mobile, in November, 1859, having deceived the collector of customs by applying for a clearance, which the collector refused, for another steamer called the "Philadelphia." At the same time a large force of fillibusters are stated to have got away from Charleston, Mobile, and other ports, by means of false papers and other similar devices. Ibid., pp. 296, 297.

In June, 1860, Walker, with a party of American fillibusters, is reported to have arrived at the Bay islands in the "John A. Taylor." Walker's career was eventually brought to a close by his being shot at Truxillo, September, 1860. Ibid., p. 398.

On the 6th of June, 1866, the President published a proclamation warning United States citizens against engaging in an apprehended expedition against Canada, (the Fenian raid,) and on the 5th of June the Attorney General instructed the district attorneys and marshals to arrest "all prominent, leading, or conspicuous persons called 'Fenians' whom they had probable cause to believe have been or may be guilty of violations of the neutrality laws." Some prosecutions were subsequently instituted against certain of the Fenian leaders, but abandoned.

In 1866 a resolution was adopted by the House of Representatives which resulted in an inquiry by the Committee of Foreign Affairs into the operation of the foreign enlistment act of 1818; and in July, General Banks presented the report of the committee, with a draft of a bill by which it was proposed to alter the provisions of that act. The principal alterations proposed were the omission of section 4, (the clause forbidding the fitting out of privateers in foreign ports to cruise against American commerce,) sections 6, and part of 8, (giving the President power to stop military expeditions,) and sections 10 and 11, the bonding clauses. Mr. Bemis's pamphlet "American Neutrality," 1866.

The intention of this draft bill was to make the American act correspond with the British act, or, as was said at the time, to "scale down" the one to the proportions of the other. The report of the committee called forth a pamphlet by Mr. Bemis, in which he shows how inexpedient and impolitic the proposed alterations would have been, and compares the amended act with the British statute.

Copies of this pamphlet have been circulated among the commissioners.

Congress adjourned shortly after this report was presented and had been referred to the Senate, and in March, 1867, the Senate Committee of Foreign Affairs were "discharged from further consideration" of the bill.

In the mean while, a case had been brought before the district court at New York, in which the act of 1818 was enforced against a vessel alleged to be intended for the Chilian service in the war between Chili and Spain. New York Herald, March 1, 1867.

This vessel, the Meteor, had been built as a ship of war for sale to the United States government, but the civil war having terminated, the sale was not effected. She was acknowledged to have been built to carry 11 or 12 guns, and the negotiations of the agent of the owners for her sale to the Chilian government were shown by conclusive evidence.

The vessel was libeled in the district court in February, 1866, but Judge Betts's decision in the case was not formally given until November. "The World," New York, November 30, 1866.

In the elaborate judgment then delivered, the standard decisions of the Supreme Court are reviewed at length.

The following are some of the more important passages:

*"The crime denounced is fitting-out or arming.*

"It was strenuously urged by the counsel for the claimant, on the hearing, that the only crime created by the third section of the act of 1818 is the crime of fitting-out *and* arming a vessel with the intent named in the statute; and that, although the attempt to commit that crime, or the procuring that crime to be committed, or the being knowingly concerned in committing that crime, is punishable under the statute, yet the body of the crime is the fitting-out *and* arming, and nothing short of that is punishable under the statute, either against the wrong doer personally, or against the offending *res;* and the interpretation sought to be put by the counsel upon these words of the statute, 'or shall knowingly be concerned in the furnishing, fitting-out, or arming of any ship or vessel, with intent,' &c., is that it is not necessary to the criminality of the individual that he should have performed every part of the crime, but it is enough if he was knowingly concerned in any one step in the chain of conduct which completed the criminality, or would have completed it if carried out, but still the crime must be the crime of fitting-out *and* arming, either completed or attempted. But the court cannot adopt this interpretation of the statute. The mischief against which the statute intended to guard was not merely preventing the departure from the United States of an armed vessel, but the departure of any vessel intended to be employed in the service of any foreign power, to cruise or commit hostilities against any other foreign power with whom the United States are at peace. The neutrality of the government of the United States, in a war between two foreign powers, would be violated quite as much by allowing the departure from its ports of an unarmed vessel with the clear intent to cruise or commit hostilities against one of the belligerents, as it would be by permitting the departure from its ports of an armed vessel with such intent. If the intent to cruise or commit hostilities exists when the vessel departs, and the vessel is one adapted to the purpose, the subsequent arming is a very easy matter. The facility with which this can be done was made manifest in the case of the Shenandoah and other vessels, which, during the late rebellion, left England unarmed, but with the full intent on the part of those who sent them forth that they should be used to cruise and commit hostilities against the United States, and were subsequently armed in neutral waters. It would be a very forced interpretation of the statute to say that it was not an offense against it to knowingly fit out a vessel with everything necessary to make her an effective cruiser, except her arms, and with the intent that she should become such a cruiser, because it should not be shown that there was any intent that she should be armed within the United States. The evil consequences which would flow from interpreting the statute to mean that the crime must include the arming of the vessel within the United States, become especially apparent in reference to that part of the third section which forbids the issuing or delivering a commission, within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed for the purpose named in the section. Under such an interpretation of the statute it would be no offense to issue or deliver a commission within the United States for any vessel, unless such vessel were actually armed at the time, or perhaps were intended to be armed prior to her departure from the United States; and it would be no offense to issue a commission within the United United States for a vessel fitted and equipped to cruise or commit hostilities, and intended to cruise and commit hostilities, so long as such vessel was not armed at the time, and was not intended to be armed within the United States, although it could be shown that a clear intent existed on the part of the person issuing or delivering the commission, that the vessel should receive her armament the moment she should be beyond the jurisdiction of the United States." * * *

"THE SANTISSIMA TRINIDAD CASE.

"Much reliance was placed by the counsel for the claim, in his summing up, upon the doctrine supposed by him to have been laid down by the Supreme Court in the case of the Santissima Trinidad. That doctrine was stated by the counsel in various forms, but the principle contended for was, that freedom of commerce is allowed to a neutral to furnish to a belligerent warlike materials or warlike vessels as articles of merchandise or traffic; that, while the principle of the law of nations is recognized which prohibits neutral territory from being used by either belligerent as a vantage ground from which he may sally forth to commit hostilities upon the other belligerent, yet the right of citizens of the neutral country to sell all that their industry produces for purposes of war, as fair matter of trade, to any belligerent, cannot be interfered with; that it is no offense and no violation of neutrality to sell a vessel of war, armed or not armed, in our ports, to a belligerent power; and that there is the same right, under the law of nations, to sell in our ports an armed vessel, under such circumstances, that there is to sell guns or

ammunition or any other raw material. At another stage of his argument the counsel maintained the proposition that unless it appeared affirmatively that the vessel was to sail out from the port of New York as an enlisted hostile ship of one belligerent, there was no criminality, although it should be made to appear by indisputable proof that she had been built, fitted, armed, and equipped as a ship of war, complete and ready for action.

"The views thus pressed upon the court have, in its judgment, no foundation in public law, or in any decision that has been made by the highest judicial tribunal of the United States. The case of the Santissima Trinidad was decided by the Supreme Court at the February term, 1822."

Judge Betts then gives an account of the facts of the case, *(vide ante,)* and continues: "In the course of his opinion, Mr. Justice Story discusses the point taken, that the Independencia was originally armed and fitted out in the United States contrary to law, and says: 'It is apparent that, though equipped as a vessel of war, she was sent to Buenos Ayres on a commercial adventure,'" &c., &c. These views of Mr. Justice Story were, as is apparent from the statement which has been made of the case, *obiter dicta*, and not necessary to the decision of the cause, restitution of the property being decreed upon the ground of the illegal augmentation of the force of the capturing vessel in our ports prior to the capture. The facts in regard to the commercial adventure of the Independencia, referred to by Mr. Justice Story, as they appear in the report of the case, were that that vessel, having been a privateer during the war between the United States and Great Britain, was, after the peace, sold by her original owners, and loaded by her new ones, at Baltimore, in January, 1816, with a cargo of munitions of war; that she sailed from Baltimore with them, and, armed with 12 guns, part of her original armament, to Buenos Ayres, under written instructions from her owners to her supercargo, authorizing him to sell the vessel to the government of Buenos Ayres if he could obtain a suitable price; and that she was sold at Buenos Ayres to parties who again sold her, so that she became a public commissioned vessel of the government of Buenos Ayres. It was on these facts that Judge Story remarked that the vessel, though equipped as a vessel of war, was sent to Buenos Ayres on a commercial adventure in no shape violating our laws or our national neutrality, and that there is nothing in our laws or in the law of nations that forbids our citizens from sending armed vessels to foreign ports for sale. If the Messrs. Forbes, or any of the owners of the Meteor, or Mr. Cary their agent, or any of the parties concerned in the transactions in regard to the Meteor, had testified before the court on this trial that the Meteor was going out to Panama on a purely commercial adventure, to be sold there if a suitable price could be obtained, and if it appeared that there was no intent on the part of the owners or any other person that the vessel should be used to violate the neutrality of the United States, there might be some pretense that this case was within the principle thus laid down by Mr. Justice Story. But the whole testimony points in a different direction. The transactions with the agents of Chili at New York in regard to the Meteor was, it is true, a commercial adventure, in so far that the vessel was sold, and that such sale was a matter of trade or commerce at New York between her owners and the agents of the government of Chili. But in the sense in which Mr. Justice Story speaks of the sending of the Independencia to Buenos Ayres on a commercial adventure, there was no commercial adventure in the case of the Meteor."

* * * * * * * * *

*The doctrines laid down in this case are the result of the legislative, executive, and judicial action of the United States.*

The importance of this case, not merely in view of the pecuniary value of the vessel proceeded against, but also in respect to the principles of public law involved in it, have led the court to a more extended discussion of those principles than would otherwise have been necessary. The court, however, entertains no doubt as to the correctness of the doctrines of public law which it has applied to the present case. Those doctrines are the result of the legislative, executive, and judicial action of the public authorities and courts of the United States in a great variety of cases, and the court has nowhere found a more excellent summary of them than in Wheaton's International Law, (eighth edition, with notes by Dana, pages 562, 563, note 215:) "As to the preparing of vessels within our jurisdiction for subsequent hostile operations, the test we have applied has not been the extent and character of the preparations, but the intent with which the particular acts are done. If any person does any act, or attempts to do any act, towards such preparation, with the intent that the vessel shall be employed in hostile operations, he is guilty, without reference to the completion of the preparations or the extent to which they may have gone, and although his attempt may have resulted in no definite progress towards the completion of the preparations. The procuring of materials to be used knowingly and with the intent, &c., is an offense; accordingly, it is not necessary to show that the vessel was armed, or was in any way or at any time, before or after the act charged, in a condition to commit acts of hostility." "Our rules do not interfere with

*bona fides* commercial dealings in contraband of war. An American merchant may build and fully arm a vessel, and provide her with stores, and offer her for sale in our own market. If he does any acts as an agent or servant of a belligerent, or in pursuance of an arrangement or understanding with a belligerent that she shall be employed in hostilities when sold, he is guilty. He may, without violating our law, send out such a vessel, so equipped, under the flag and papers of his own country, with no more force of crew than is suitable for navigation, with no right to resist search or seizure, and to take the chances of capture as contraband merchandise, of blockade, and of a market in a belligerent port. In such case the extent and character of the equipments is as immaterial as in the other class of cases. The intent is all. The act is open to great suspicions and abuse, and the line may often be scarcely traceable, yet the principle is clear enough. Is the intent one to prepare an article of contraband merchandise, to be sent to the market of a belligerent, subject to the chances of capture and of the market; or, on the other hand, is it to fit out a vessel which shall have our port to cruise, immediately or ultimately, against the commerce of a friendly nation? The latter we are bound to prevent; the former the belligerent must prevent."

The judgment was given against the vessel, but she was eventually restored to her owners under bond, and what became of her afterwards does not appear.

It must be remembered that this opinion of Judge Betts was not reviewed by the Supreme Court, and is therefore of inferior authority.

It has been much criticised, both in this country and in the United States.

This brings the history of the American foreign enlistment act down to the present time.

In 1838, on the outbreak of the rebellion in Canada, the United States government issued a proclamation cautioning United States citizens from assisting in it.

A strong military force was also sent to the frontier, and the President delivered a message to Congress recommending the enactment of some special measure to meet the occasion. In the meanwhile, an expedition was openly organized at Detroit. This expedition seized the arsenal, and the steamboats and ships lying off the Detroit wharves, and succeeded in getting off to Canada without hinderance. A military force was then ordered to the frontier, and sent to Plattsburg, where another expedition was said to be fitting out. A bill for the prevention of such expeditions was introduced into Congress, but not passed until the 10th of March, by which time the rebellion was nearly subdued.

British and Foreign State Papers, vol. xxv, page —.

Correspondence with Mr. Fox, her Majesty's minister at Washington.

Mr. Fox, No. 5, January 29, 1838.

Mr. Fox, No. 7, February 5, 1838.

This act, which was limited to two years, provided for the seizure and detention of any vessel, vehicle, or arms or munitions of war "provided or prepared for any military expedition or enterprise against the territory or dominions of any foreign prince or state, or of any colony, district, or people, conterminous with the United States."

United States Statutes at Large, vol. v, page 212.

### THE BRITISH FOREIGN ENLISTMENT ACT.

The United States foreign enlistment act, as will have been seen, arose from the construction put on the terms of the treaty with France of 1778; the British foreign enlistment act may also be said to have arisen from the provision of a treaty—that with Spain of the 28th of August, 1814.

This treaty, or, as it is called, "Additional Articles to the Treaty of July 5, 1814," contains the following article:

British and Foreign State Papers, vol. i, page 292.

"ARTICLE III. His Britannic Majesty, being anxious that the troubles and disturbances which unfortunately prevail in the dominions of his Catholic Majesty in America should entirely cease, and the subjects of those provinces should return to their obedience to their lawful sovereign, engages to take the most effectual measures for preventing his subjects from furnishing arms, ammunition, or any other article to the revolted in America."

In 1818 the reactionary policy of King Ferdinand, the prohibitory duties imposed by him on British commerce, and the ingratitude with which he treated British officers and others who had served his cause in Spain, had provoked a great deal of irritation in England; and there was a considerable party in the House of Commons, headed by Sir James Macintosh, who were prepared to support the claims of the Spanish-American colonies to independence.

Expeditions were said to be in preparation for rendering active assistance both to the malcontents in Spain and to the rebels in America, in spite of a proclamation forbidding such expeditions, which had been published in 1817; and the government consequently found that it was necessary, in order to keep good faith with Spain, and to prevent infractions of British neutrality, to bring in an act of Parliament to provide for the case which now for the first time arose in modern history, of Great Britain being neutral at the time of a great maritime war.

The history of the British neutrality law at that period is thus stated by Sir R. Phillimore:

"The statute of the third of James I, chapter four, made it felony for any person whatever to go out of the realm to serve any foreign prince, without having first taken the oath of allegiance before his departure. It was felony also for any gentleman, or person of higher degree, or for one who had borne any office in the army, to go out of the realm to serve such foreign prince or state, without previously entering into a bond with two sureties, not to be reconciled to the See of Rome, or enter into any conspiracy against his natural sovereign. And further it was enacted by statute 9 Geo. II, c. 30, enforced by statute 29 Geo. II, c. 17, if any subject of Great Britain shall enlist himself, or if any person shall procure him to be enlisted, in any foreign service, or detain or embark him for that purpose, without license under the King's sign-manual, he shall be guilty of felony without benefit of clergy; but if the person so enlisted or enticed shall discover his seducer within 15 days, so as he may be apprehended and convicted of the same, he shall be indemnified. It was moreover, by statute 29 Geo. II, c. 17, enacted that to serve under the French King as a military officer, shall be felony without benefit of clergy; and to enter into the Scotch brigade, in the Dutch service, without previously taking the oaths of allegiance and abjuration, shall be a forfeiture of £500." Phillimore's International Law, vol. iii, ed. 1857, page 212.

The act for the amendment of the neutrality laws was introduced by Mr. Canning on the 10th of June, 1819, in an eloquent speech, in the course of which he said: "It surely could not be forgotten that in 1793 this country complained of various breaches of neutrality (though much inferior in degree to those now under consideration) committed on the part of subjects of the United States of America. What was the conduct of that nation in consequence? Did it resent the complaint as an infringement of its independence? Did it refuse to take such steps as would insure the immediate observance of neutrality? Neither. In 1794, immediately after the application from the British government, the legislature of the United States passed an act prohibiting, under heavy penalties, the engagement of American citizens in the armies of any belligerent power. Was that the only instance of the kind? It was but last year that the United States passed an act by which the act of 1794 was confirmed in every respect, again prohibiting the engagement of their citizens in the service of any foreign power, and pointing distinctly to the service of Spain or the South American provinces." Cobbett's Parliamentary Debates, vol. xl, page 1103.

On the other hand, Sir James Macintosh inveighed against the act as a left-handed neutrality, and as aimed at the struggling independence of South America. Sir W. Scott spoke in favor of the bill on the third reading on the 21st of June, and it was passed by a majority of 61.

Many amendments had, however, been introduced into it, and among others the insertion of the words "as a transport or store-ship" in the seventh clause. This was intended to prevent British ships being hired to take troops from Spain to America; but the result has been to create the greatest confusion of meaning in the act.

The passing of this act seems to have put a stop, for the time at least, to the dispatch of expeditions against Spain; and in April, 1823, Lord Althorp moved for the repeal of the act. Mr. Canning, in reply, entered into the question of the neutrality of England, and pointed out that, far from being aimed exclusively at South America, this act was in reality in favor of the colonies, as it extended to Spain the prohibition to export arms, &c., which had been already provided for against them by the treaty of 1814. Referring to the United States law, he said: "If I wished for a guide in a system of neutrality, I should take that laid down by America in the days of the Presidency in Washington, and the secretaryship of Jefferson. In 1793, complaints were made to the American government that French ships were allowed to fit out and arm in American ports, for the purpose of attacking British vessels, in direct opposition to the laws of neutrality. Immediately upon this representation the American government held that such a fitting out was contrary to the laws of neutrality; and orders were issued prohibiting the arming of any French vessel in American ports. At New York a French vessel fitting out was seized and delivered over to the tribunals and condemned. Upon that occasion the American government held that such fitting out of French ships in American ports for the purpose of cruising against English vessels was incompatible with the sovereignty of the United States, and tended to interrupt the peace and good understanding which subsisted between that country and Great Britain. Here, I contend, is the principle of neutrality upon which we ought to act. It was upon this principle that the bill in question was enacted." Cobbett's "Parliamentary Debates," New Series, vol. viii, page 1019.

The motion was rejected by a majority of 106.

The neutrality law of the United States having formed the foundation of the neutrality law of this country, and the decisions of the judges of that country having been, as it were, incorporated in the law of nations, the application of the United States foreign enlistment act has been treated of at some length; but as it would be useless to attempt within the compass of a memorandum to go into the intricate questions of "intent," "equipping, fitting out or arming," &c., &c., which have at various times been raised

under the British act, it is only proposed to mention some of the leading instances in which it has been put into operation or suspended.

Phillimore, vol. iii, page 229.

In 1827 an expedition of four vessels, under the command of Count Saldanha, sailed from Plymouth, ostensibly for Brazil, but in reality, as was supposed, to operate against the party of Don Miguel in Terceira. Her Majesty's ship Walpole, with some gunboats, was sent to Terceira to intercept this expedition. This was done off Port Praya, and the Walpole escorted the expedition back to the channel. It eventually went to Brest. The Walpole subsequently stopped another expedition off Port Praya which had sailed from London.

Phillimore, vol. iii, pages 218 and 219.

In 1835 an order in council was passed exempting British subjects engaging in the service of Isabella of Spain from the penalties of the foreign enlistment act. This enabled the Spanish Legion, under Sir De Lacy Evans, to be formed. A debate took place on the question in June, 1835, but the competency of the Crown to make such a relaxation was not disputed.

Correspondence with home office and treasury, October and November, 1846.

In 1846 certain British merchants complained that an expedition was being prepared to sail under General Florez against Ecuador. Their representation was supported by several of the South American ministers. It appeared that three vessels, the Glenelg, Monarch, and Neptune, were ready to set sail with a large number of emigrants, or, as it was said, troops on board, and that men had been openly enlisted for General Florez's service. The vessels were seized and condemned.*

Correspondence with Baron Moncorvo, April and May, 1847.

In 1847 the Portuguese minister complained that the Black Cat was being fitted out to proceed with volunteers for the Portuguese rebel service. The vessel was seized, but released.

Shortly afterwards he made another complaint of a number of British subjects having taken service at Oporto under the revolutionary leaders. He was told in reply that the English law did not extend to such acts committed in a foreign country.

A Mr. Hislop, however, who had returned from Portugal after serving in the rebel army, was denounced by the Portuguese minister, and would have been proceeded against had the law officers considered the evidence sufficient.

On the 30th of August, 1862, an order in council was issued, suspending the foreign enlistment act so far as to enable Captain Osborn and Mr. Lay to enter the service of the Emperor of China "to fit out, equip, purchase, and acquire ships or vessels of war for the use of the said Emperor, and to engage and enlist British subjects to enter the military and naval service of the said Emperor." This permission to remain in force until the 1st of September, 1864.

The license granted by this order in council was extended to "all military officers in her Majesty's service," by the order in council of the 9th of January, 1863, with a similar limitation to the 1st of September, 1864. (Hertelet's Commercial Treaties, vol. xi, pp. 665–683.)

It will be observed that in all, or nearly all, the cases up to the time of the American civil war, the foreign enlistment act had been invoked to prevent the enlistment and dispatch of recruits and soldiers rather than the equipment of vessels.

The American civil war introduced a new series of cases, in which the foreign enlistment act was called into operation. These are so well known that it will be sufficient merely to name them in the order as they occurred:

"Creto," tried at Nassau; released August, 1862.

"Alexandra," tried in England.

This was the celebrated cause in which all the issues as to the meaning of the equipment clauses of the foreign enlistment act were raised. The vessel was acquitted, the four judges in the exchequer court being equally divided in opinion; the junior withdrew. The costs and damages were compromised by the government for £3,700, and the vessel sailed for Nassau. Here she was again seized, and remained under seizure until the end of the war.

The iron-clads El Tousson and Mounassir at Liverpool, said to have been ordered for the Egyptian government. The ships were seized, but eventually purchased by government, and are now her Majesty's ships Wivern and Scorpion.

The Canton or Pampero. This vessel was seized in the Clyde, and the builder allowed judgment to be taken against him. She remained under seizure until the close of the war, and has now become notorious under the name of the Tornado.

There were five prosecutions for enlisting men to serve in confederate vessels:

Mr. Rumball, the officer of Sheerness dockyard who took part in the equipment of the Rappahannock. He was acquitted February 4, 1865, although the case against him was a very strong one.

Messrs. Jones and Highat, for enlisting men for the confederate service. They were convicted and sentenced, November 23, 1864, to pay a fine of £50 each.

Campbell, enlisting for Georgia, pleaded guilty, and released on recognizance of £150 to appear when called upon.

* There is no record of the trial in the foreign office.

Seymour, Cunningham, and Buchanan, convicted of enlisting for Rappahannock, and discharged on recognizances.

Captain Corbett, who commanded the vessel that took out the armament and crew to the Shenandoah at the Desertas off Funchal. A very strong case, but the evidence for the prosecution as to the actual enlistment of men broke down, and Captain Corbett was acquitted.

The cases of the Alabama, Shenandoah, and Georgia are fully explained in the parliamentary papers, of which copies have been furnished to the commissioners.

For an epitome of the representations addressed to her Majesty's government by Mr. Adams, during the civil war, see the memorandum annexed to Lord Russell's letter to Mr. Adams of November 3, 1865, (Parl. paper, North America, No. 1, 1866, p. 139.)

CHAS. S. A. ABBOTT.

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## APPENDIX No. IV.

## REPORTS FROM FOREIGN STATES, DECLARATIONS OF NEUTRALITY, &c.

The accompanying circular was sent by the foreign office to her Majesty's representatives at the courts of the following countries: Austria, Belgium, Denmark, France, Italy, the Netherlands, Portugal, Prussia, Spain, Sweden, United States.

FOREIGN OFFICE, *February* 14, 1867.

The commission which has been appointed by the Queen to consider the neutrality laws of this country, being desirous of obtaining information respecting similar laws in other maritime countries, I have to instruct you to ascertain and report, with as little delay as possible, what laws, regulations, or other means the government to which you are accredited possess for preventing acts within their territories of which belligerents might complain as a violation of the duties of neutrality.

And the following papers were received in reply:

### AUSTRIA.

(Received from her Majesty's embassy at Vienna.)

*Note from the minister of foreign affairs to her Majesty's ambassador.*

Mr. Bonar, her Britannic Majesty's chargé d'affaires, was pleased to make inquiry of the imperial minister of foreign affairs as to what laws, regulations, or measures are laid down by the government of his imperial Majesty in order to prevent transactions in their territory of which belligerent powers might complain as being an infringement of the neutrality laws. After consulting the competent authorities, the minister of foreign affairs has now the honor to communicate to Lord Bloomfield, &c., &c., &c., with reference to the above question, as follows:

The declaration signed in Paris by the representatives of Austria, France, Great Britain, Prussia, Russia, Italy, and Turkey, on the 18th of April, 1856, concerning the rights of neutrals in naval warfare, has been published in legal course in Austria, and constitutes, therefore, a law generally in force.

Apart from the principles which lie at the foundation of this declaration, there exists, however, no law in Austria, nor any other order generally binding, which could be made to apply to violations of neutrality by Austrian subjects.

The imperial government have endeavored to supply this want in cases of war between other states, by promulgating in legal forms special regulations for the preservation of neutrality applicable only to the war in question. Thus in the year 1854, in consequence of the war then existing, the ministerial ordonnance of May 25, 1854, was promulgated, of which copy is inclosed herewith.

In such special declarations the generally acknowledged principles of international law, as well as the known views of the belligerent powers on certain points, have been taken into consideration, in order as much as possible to obviate any complaints of infringement of neutrality.

There does not exist, however, a law of this kind applicable to all future occasions, and more particularly there are no general laws in Austria prohibiting the construction, equipment, or manning of ships (in Austrian harbors) which are destined for belligerent powers, or are suspected of being so.

The undersigned, &c., &c.

MEYSENBUG.

VIENNA, *May* 16, 1867.

*Published on the 28th of May, 1854.*

Decree of the ministries of the interior, of the exterior, of justice and of trade, as well as of the commander-in-chief of the army of 25th May, 1854, by which are published the principles to be observed during the war that has broken out between England, France, and the Ottoman empire on the one side, and Russia on the other side, by the imperial authorities and subjects with reference to trade and navigation.

In consequence of the war which has broken out between England, France, and the Ottoman empire on the one side, and Russia on the other side, the following regulations are published with the consent of his Imperial Apostolic Majesty, given on the 23d May, 1854, according to which all imperial, civil, and military authorities, as well as all Austrian subjects, will have to regulate their conduct.

1. The acceptation or employment of lettres de marque under whatever form or flag, as well as every kind, share in the command, manning of, or fitting out of privateers, is prohibited to Austrian subjects. Whoever acts otherwise, has not only to expect no protection on the part of the imperial government, if he is subjected to punishment in other states, but he shall also be treated according to the existing laws for robbery, as the acceptance of lettres de marque is to be considered as an attempt at robbery.

2. Should foreign privateers provided with lettres de marque from one of the belligerent powers present themselves, the entrance into our harbors is to be refused, except in case of imminent danger from storms, and then their earliest possible departure must be insisted on.

3. It is forbidden to ships under Austrian colors to carry troops of the belligerent states, or to import into those countries commodities which, according to the law of nations, or other universally known regulations, are considered as contraband of war.

Of such commodities an Austrian ship in intercourse with these states may only carry so much as is strictly necessary for its own use or defense.

Whoever infringes on this prohibition has no protection to expect from the Austrian government in case of legitimate seizure and confiscation on the part of the belligerent states, but will be punished besides.

4. Austrian ships are forbidden to enter into such places and harbors as are besieged by one of the belligerent powers, or blockaded by a sufficient force, as otherwise they would neither have to expect to enjoy the freedom of a neutral flag, nor assistance or interference on the part of the imperial government.

5. Except in this case, Austrian merchant ships are not hindered, in spite of the existing war, in carrying on their trade and intercourse with the harbors of the powers engaged in the war, and in like manner the merchant-ships of the belligerent states may as before enter without hindrance into all Austrian harbors, remain as long as they please, get repairs, &c., &c., in so far as they observe the existing laws and regulations, and so long as their conduct is in accordance with the rules of neutrality.

With respect to the admission of foreign ships of war into Austrian harbors, the conditions of the decree of the ministry of war of the 29th of January, 1850, remain in force.

6. On the expectation that the neutral Austrian trade will be properly respected by the belligerent powers, and that the customary privileges of belligerents will be exercised with a proper observance of the laws of nations, or of any modifications of them consonant with treaties, it is herewith decreed that Austrian navigators shall not oppose themselves to visitation on the open sea on the part of foreign ships of war, but on the contrary shall, without difficulty, show the papers and documents by which their neutral capacity is proved, throw none of them into the sea, or otherwise destroy them, nor keep on board false or duplicate and secret papers.

The belligerent powers have besides officially expressed the satisfactory declaration that the property of the enemy in neutral ships, and neutral property in the enemy's ships, with the exception of contraband of war and the enemy's dispatches, shall be respected and not taken.

7. The captures which the belligerent powers make from the enemy may only be admitted into the harbor of Trieste, (with exception of every other Austrian harbor,) where the effects may be disembarked, deposited, administered, (in case they do not contain goods the import of which into the imperial states is forbidden,) bought, or sold, or be exported anew in the course of trade, but all under the condition that the judicial decision shall have been given by the competent authority of the power which has taken the prize as to their legitimacy. Should some goods be exposed in the mean time to injury, these may be sold beforehand, but only on sufficient security for their value being given, in case the decision should declare the liberation of the ship.

8. Should an Austrian ship, in spite of its obedience to the above regulations, be treated in an improper manner, information is to be given without delay to the nearest Austrian consular or other imperial authority, in order that the imperial government may take steps to obtain compensation and satisfaction from the foreign state, and when steps have already been taken by the injured party to support them.

9. These regulations will be put in force from the day of their publication.

BELGIUM.

(Received from her Majesty's legation at Brussels.)

[Translation.]

1. *Article* 14 *section IX of the Navy Regulations for* 1861.

No vessel taken by captains who have a foreign commission can remain more than 24 hours in our ports and harbors, unless compelled by storms, (or unless the prize is from our enemies.

2. *Article* 84 *of the Penal Code.*

Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and if war ensues, by deportation.

2. *Article* 85 *of the Penal Code.*

Whoever exposes Belgians to reprisals, through acts not approved by the government, shall suffer banishment.

4. *The Crimean war declaration, of the* 25*th of April*, 1854.

Merchants are notified that instructions have been issued to the judicial, naval, and army officials, to let them know that privateers of any flag, or with any letters of marque, or any commission, shall not enter our ports with prizes, except in stress of weather; and the officials are instructed to keep watch over them, and to send them to sea as soon as possible. They are also charged not to acknowledge any commission or letter of marque from the belligerents, without the King's permission.

Every person subject to the laws of the kingdom who arms privateers, or takes any part in such act, is liable to be treated abroad as pirates, and are amenable to the laws of Belgium.

5. *The Italian war declaration, of the* 8*th of May*, 1859.

Belgium adheres to the principles laid down in the declaration of the Paris Congress of the 16th of April, 1856.

Merchants are notified that instructions on this subject have been issued to the judicial, naval, and army officials.

Every person subject to the laws of the kingdom who arms privateers, or takes part in such act, or who violates neutrality, is liable to be treated as a pirate abroad, and to be prosecuted at home.

6. The American war declaration of the 22d June, 1861, was similar to that of 1859.

7. The Brazil-Paraguay war declaration of the 11th June, 1865, is the same.

8. The Spanish-Chili-Peru declarations of the 18th February, 1866, and the 14th March, 1866, are similar to the above.

DENMARK.

COPENHAGEN, *April* 30, 1867.

MY LORD: In pursuance of the instructions contained in your lordship's circular dispatch of the 14th of February, addressed to Sir Charles Murray, I have the honor to transmit herewith to your lordship copy of a note that has been addressed to me by Count Frys Frysenborg, transmitting copies of the Danish laws and regulations in vigor for the prevention of acts within Danish territories of which belligerents might complain as a violation of the duties of neutrality.

Inclosure No. 2 to this dispatch is a set of laws, with translation, dated May, 4, 1803, for the guidance of merchants and shipmasters in time of war between maratime powers. In the 13th article are enumerated the goods that are to be considered as contraband of war.

Very important special regulations are laid down in article 14, with a view to controlling the shipment of articles contraband of war, and to insuring their due delivery at neutral ports.

According to the 18th article, Danish owners and masters of merchant vessels who infringe the law not only forfeit their right to Danish citizenship and the protection of their government, in case of seizure by the enemy, but likewise expose themselves to prosecution by the tribunals of their country.

Various articles of the law of May 4, 1803, will be annuled by the provisions of a new law bearing date March 13, 1867, (copy of which, together with a translation, was transmitted to your lordship's office by Mr. Consul Bridges Taylor, in his despatch of the 27th instant,) and which is to come into force in the month of October of the present year.

In it are defined the character of the ship's papers which all Danish merchant ships will in future be required to possess in order to prove their nationality.

They will consist of a certificate of registry, the articles of agreement, custom-house clearance, charter-party, and bills of lading.

The ancient Latin passports are abolished.

By a set of regulations embodied in an ancient circular of the Royal Danish Chancellerie, dated May 20, 1823, (enclosure No. 4 in this despatch, with translation,) privateers are forbidden to enter Danish ports, except on account of stress of weather or pursuit by an enemy. They are bound, however, to quit their place of refuge so soon as the danger be past.

An injunction is likewise laid on foreign vessels of war, as well as privateers, from sending their prizes to or selling them or their cargoes in Danish ports, and Danish subjects are strictly forbidden to purchase any prize brought into Danish ports.

The 6th inclosure to this dispatch is a copy of circular, together with translation, which was addressed, during the Crimean war, to the commanders of vessels stationed in Danish waters, and points out the course they were directed to pursue in order to maintain the neutrality of Danish territory, and to prevent the commission of any act that might give umbrage to either of the belligerents at that time engaged in hostilities.

I have likewise the honor to inclose herewith to your lordship copy of the 76th article of the Danish Penal Code of February 10, 1866, fixing the penalties to be inflicted on persons who, without royal authorization, should enlist soldiers in Denmark to serve in a foreign war.

I have the honor to be, with the highest respect, my lord, your lordship's most obedient humble servant,

FRANCIS CLARE FORD.

The Lord STANLEY, P. M., *&c.*, *&c.*, *&c.*

[Translation.]

COPENHAGEN, *April* 26, 1867.

SIR: After consulting the proper ministers about Sir Charles Murray's note of the 19th of February last in regard to the provisions of the law intended to prevent violations of neutrality towards foreign belligerent nations on Danish soil, I inclose to you—1. One copy of the ordinance of the 4th of May, 1803, containing instructions to captains and owners of vessels in regard to their conduct during a naval war in which Denmark takes no part. 2. The copy of a circular from the royal Danish cabinet, dated 20th May, 1823, specifying the conditions under which foreign war vessels and privateers of belligerent nations may enter Danish ports, during a war in which Denmark is not interested. 3. A circular addressed to commanders of the royal navy in Danish waters during the Crimean war, prescribing neutrality according to laws in force, and prohibiting acts offensive to either belligerent power. 4. A French translation of article 76 of the penal code of 10th of February, 1866, specifying penalties incurred by persons recruiting soldiers on Danish soil, for the military service of a foreign power, without the King's consent.

In calling your attention to these ordinances and circulars, I deem it my duty to give you a brief analysis of the provisions of the ordinance of 4th May, 1803.

The articles from 1 to 13 contain forms of the papers necessary to prove the nationality of a Danish trading vessel, in a naval war between foreign powers. In reference to these provisions I must inform you that, as Latin passports are no longer required on trading vessels, in accordance with existing treaties between Denmark and Great Britain, (see Lord Russell's note of 29th June, 1861, to our minister in London,) the government has repealed the ordinance of 4th May, 1803, in relation to such passports: and, by a new law of the 13th March past, many other articles have been rescinded or modified. Article 2 of the said law only requires, as proof of the nationality of a trading vessel, the paper called "a certificate of nationality or registry," showing that the ship is on the list of those vessels having a right to carry the Danish flag. According to the same article, every registered vessel is only required to carry a crew-list, the cargo papers, and a custom-house clearance, in times of war or peace.

To prevent a misuse of the Danish flag in covering articles contraband of war, intended for belligerent powers or their subjects, article 13 of the ordinance of 4th May, 1803, gives a list of articles considered as contraband.

Article 14 forbids captains of trading vessels to carry those articles, unless he gives security that they are to be delivered at a neutral port. In such case, the master and freighters are obliged to observe certain formalities to prove that the goods were actually delivered at the neutral port.

Article 15 commands masters of trading vessels to observe the royal proclamations in relation to a blockaded port of either belligerent power. If masters are ignorant of such blockade, and near the blockaded port, they are required by this same article to heed a notice given by the blockading squadron at the port.

By article 18 of the same ordinance, freighters and masters who violate this law for-

feit the protection of the government, and make themselves liable to prosecution in the courts.

Hoping these remarks may prove satisfactory in answer to your questions, I take the opportunity to express my esteem and consideration.

FRYS FRYSENBORG.

To MR. FORD,
*Her Britannic Majesty's Chargé d'Affaires.*

*Rules for the guidance of merchants and ship-masters in time of hostilities between maritime powers.*

We, Christian VII, by grace of God, King of Denmark and Norway, the Goths and Vandals, Duke of Sleswig Holstein, Stormarn, Ditmarch, and Oldenburg:

Make known—Although we, by several previous resolutions, fixed the rules according to which our traders and seafaring subjects should be guided when war broke out between foreign maritime powers, we have, nevertheless, found it necessary under the present circumstances to make one condensed enactment, imbodying those parts of these former resolutions, that they may hereafter serve as a rule of guidance for these our subjects, and become publicly known; and also so that no Danish subject shall plead ignorance of his duties in these respects, it is our gracious will that the following enactments hereafter shall alone be followed and accurately conformed to by all and every one who wishes to share in the advantages which our neutral flag in time of war will give to their lawful trading and maritime speculations; and to this end we hereby annul and declare void all our former enactments. We order and command as follows:

ARTICLE I. Those our trading and seafaring subjects who wish to send any of their ships to sea to any foreign places to which the effects of the war have or may reach, shall be bound (always in conformity with the rules and regulations laid down in the following law) to acquire a royal Latin sea-pass or permit, as well as the other ship's documents and papers exacted by law. To this end, on the breaking out of hostilities between foreign powers, it will be necessary to decide and make known for what places it is considered necessary that ships should be provided with our Latin sea-pass.

ART. II. The pass cannot be obtained before the owner of the ship for which it is required has provided himself with the necessary ship's certificate in proof of his lawful right of ownership.

ART. III. No man can obtain a ship's certificate who is not our subject either by birth in our kingdoms and countries, or who before the breaking out of hostilities between any of the maritime powers of Europe was in full possession of the rights of citizenship, either in our or other neutral states. In all cases the owner of a ship for which a certificate is demanded shall be domiciled in some place in our kingdoms and countries.

ART. IV. He who, according to the foregoing articles, is entitled to obtain or claim a ship's certificate, shall, in order to receive the same, present himself to the magistrate or authorities of the city or place to which the ship belongs, or where the principal number of its owners are domiciled, where either they, or at least the chief owner, has, in person or by means of a written and signed oath, declared that the ship belongs to him, or to one or more of our subjects, and that the ship for which the certificate is demanded has no contraband of war on board destined for the use of the belligerent powers or their subjects.

ART. V. No one, on the breaking out of hostilities, shall be permitted to command a ship provided with our royal sea-pass who may have been born in any of the countries of the belligerent powers, unless he, before the breaking out of hostilities, shall have acquired rights of citizenship in our kingdoms and countries.

ART. VI. Every ship master who will command a ship furnished with our royal Latin sea-pass must have acquired citizenship at some place in our kingdoms and countries.

He is bound constantly to have his letter of citizenship with him on board. As a security that he undertakes nothing that may be in contradiction with the provisions of this our enactment, he shall be bound, before departure from the harbor where he receives the pass, to take an oath that nothing with his will shall be undertaken whereby the pass and certificate given to him shall be misapplied.

Such oath made by the master shall accompany the owner's application for the delivery of the permit. But when, on account of the absence of the ship's master, this cannot be accomplished, the owner shall state the fact, and then our consul or commercial agent in the district where the master happens to be shall be answerable that when the master receives the permit he shall take the required oath.

ART. VII. On ships which are to be furnished with the royal Latin sea-pass no supercargo, factors, clerks, or other ship's officials who are subjects of the belligerents shall be permitted on board.

ART. VIII. Half the crew, including the mate, shall consist of the subjects of our kingdoms and countries. Should it happen that a crew in a foreign country, through desertion, death, or sickness, become incomplete, so that it is impossible for the master to comply with this enactment, he shall be permitted to engage as many foreigners (especially subjects of neutrals) as may be required to continue the voyage; however, in no case shall the number of subjects of the belligerents who may be on board the ship exceed a third part of the crew.

Every change connected with such alterations in the crew, together with the reasons calling for them, shall be carefully entered by the captain on the ship's articles, which shall be attested each time and signed by our consul or commercial agent, or their deputies resident in the ports the ship may put into, and such indorsement shall serve as a justification for the master in all subsequent contingencies.

ART. IX. Besides the ship's certificate mentioned in article II, the following ship's documents shall always be found on board the ship:

The shipbuilder's certificate, and, inasmuch as he who built the ship may later have sold it to another, then also the bill of sale or title deed shall be present.

The documents, on application for the delivery of the pass, shall be sent by the owner to the proper authorities, accompanied by the certificate, in proof of the ship's lawful right to claim the certificate.

The royal Latin sea-pass, with the accompanying translation.

Measure bill, or certificate of measurement.

Articles of agreement and list of the crew, which must be properly attested by the competent authorities.

Charter-parties and bills of lading of the cargo; and, lastly,

Custom-house clearance from the place where the cargo was taken in.

ART. X. The measure bill shall be delivered by the authorities of our kingdoms and countries properly authorized to measure ships. In case any of our subjects purchase a ship in a foreign port, our consul or commercial agent at the place shall be authorized to have the ship measured, and thereafter deliver to the master of the ship a provisional measure bill, which shall be considered valid until the ship arrives in one of our harbors where the ship can be properly measured and branded, and a permanent measure bill be made out, which shall remain with the ship.

ART. XI. It is forbidden to all and every one, owners as well as shipmasters, to procure for themselves and to have on board duplicate ship's papers, or to carry a foreign flag, as long as they are sailing with papers and documents graciously given by us.

ART. XII. Our royal Latin sea-pass is only valid for one journey, *i. e.*, from the time the ship after receiving it quits its home port and until the time it returns to it; unless the ship in the mean time, by lawful sale, has been transferred to another party, in which case the new owner must obtain the necessary passes and documents in his own name.

ART. XIII. According to ordinary received principles, the subjects of neutral powers cannot be permitted to have goods on board which can be considered as contraband of war when they are destined for the belligerent powers, or their subjects, or already belong to them; so have we, the King, in order to prevent our flag being misused to cover or protect such carrying of contraband articles, and in order that no one in this respect shall excuse himself on the ground of ignorance, hereby and expressly decided what should be classed under the denomination of contraband of war. Hereafter the following articles and goods of all and every one our subject shall be considered as contraband of war: cannons, mortars, all kinds of weapons, pistols, bombs, grenades, cannon balls, and bullet guns, flint stones, fusees and tinder, gunpowder, saltpetre, sulphur, cutlasses, pikes, swords, fittings, cartouche boxes, saddles, and bridles; however, with the exception of such quantities of these articles as may be requisite for the protection of the ship or of its crew.

Besides, one must in every respect conform to all special stipulations or positive contracts which we, the King, have agreed to with foreign powers in relation to the carrying of prohibited goods and properties in our subjects' ships, in which case the owner on receiving the pass will be furnished with special instructions for his guidance.

ART. XIV. Should a ship bound for a foreign port take in such goods which, if they were destined for any of the harbors or ports of the belligerent powers, would be considered as contraband of war, in addition to the oath which the owner and shipmaster would have to take before the proper magistrate or authority, the persons who load such ships and the master shall also be bound, in conformity with the invoice of the cargo or bills of lading, to draw up, besides the ordinarily required custom clearance, a special declaration which shall contain a classification of the merchandise in question, with their qualities of value, which declaration, signed by the shipper and master, shall be certified by the custom-house authorities at the place where the clearance is given. The declaration thus attested shall, without delay, after the clearance of the ship, be sent by our custom officials to the chief commissioners of customs, and shall serve to control the correct arrival of the specified goods at their specified destination, provided

they have not been lost by accident at sea or by capture. The control shall be carried out in the following manner: The shipper of the goods in question shall procure a certificate from our consul or commercial agent at the place to which the ship is bound, or when we have no consul or commercial agent there, a certificate from the lawfully authorized local authorities certifying the due arrival and discharge of the merchandise in conformity with the declaration. This certificate shall be procured and sent in to the home office as soon as the ship arrives at its destination or reaches some home port. Should the certificate not be forthcoming in a reasonable time proportionate to the length of the journey, our home office shall demand a declaration from the shipper to the effect that he declares on oath that he has received no information about the goods or the ship. Should the arrival of the ship and the discharge of the goods in question in a neutral port not be clearly proved, and no accident or violent capture have taken place to prevent the arrival and discharge, the shipper shall pay to the treasury a fine of 20 rix dollars for every commercial last of the ship's burden; besides both owner and master shall be liable to an action at law.

ART. XV. No shipmaster shall sail to any port blockaded from the sea-side by one of the belligerent powers, and he shall in every respect carefully pay attention and conform to the warnings communicated to him by the authorities relative to the blockade of ports. In case he, on sailing into any port, (the blockade of which has not previously been brought to his knowledge,) meets any ship carrying a flag of war of any of the belligerent powers, and it is notified to him by the commanders that the port is really blockaded, he shall immediately retire from it without in any way seeking clandestinely to break the blockade.

ART. XVI. None of our subjects shall take service on board privateers, much less themselves arm or be interested in the arming of such ships; neither shall any owner or shipmaster allow his ship to be used for the transport of troops, weapons, or contraband of war, of whatsoever description. Should any shipmaster be unable to prevent his ship (through irresistible force) being misused as above mentioned, it shall, notwithstanding, be his duty to protest, and with all his power and by a formal act, against such violent proceeding which he has been unable to obviate.

ART. XVII. When a merchantman, not sailing under convoy, is spoken with at sea by any armed vessel belonging to the belligerent powers who have the right of visitation, the shipmaster shall not oppose such visitation, if effected by the commander of such above-mentioned armed ship, but is bound on the contrary faithfully and without reserve to show all the documents appertaining to ship and cargo. Both the shipmaster, his officers and crew, are strictly forbidden to throw overboard or in any other way to destroy or conceal any documents or papers on board belonging to the ship or cargo, either before the visitation or whilst it takes place. When the protection of our flag of war is granted to merchandise, every shipmaster, before he is taken under convoy, shall exhibit his ship's papers to the chief of the convoy, and in every case most carefully conform to his orders.

ART. XVIII. Should any one, be he owner or master, act in contravention to these enactments, he shall lose his citizenship, and the right to own or command ships; moreover, he shall be prosecuted according to law, and according to circumstances be punished either for perjury or for having infringed our royal mandates. On the other hand, we will cause to be respected and protect the lawful enterprises by land and sea of our faithful subjects, so long as they conform to the foregoing rules and regulations, to which end we have enjoined and ordered all our ministers and consuls, and other authorities in foreign parts to endeavor to their utmost to ward off and prevent any inconvenience or violence being suffered by our subjects, and in case such should have occurred, then to aid the injured parties and endeavor to assist them to obtain justice and compensation. Likewise we, the King, will at all times graciously give our support to every just complaint which our subjects in the above respects may feel themselves called upon to lay before us.

Given at our royal palace at Copenhagen, May 4, 1803, under our royal hand and seal,

CHRISTIAN R.

*Royal Danish Chancellerie's resolutions of May* 20, 1823.

The royal department of foreign affairs has announced to this chancery that, under date of the 30th of last month, it has pleased his Majesty the King graciously to resolve that it shall not be allowed to any privateer, of whatever nation, to remain in any Danish harbors or waters.

Only in case that such privateers, forced by pressing danger of storms, bad weather, or that pursuit by the enemy occasion dangers, seek refuge in a Danish port, then they shall be received and receive such help as humanity may dictate, but they shall be bound, immediately the danger is over, to put to sea again. Neither shall any privateer be permitted to send his prizes to Denmark, or to sell them there; and in the last-mentioned case, when privateers, forced by necessity, seek refuge in Danish ports, they

shall neither unload nor load prizes they may bring with them, neither shall they sell these or their cargoes or any part of them in Danish harbors.

To this end it shall by public notice be stringently forbidden to all his Majesty's subjects to buy foreign privateers' prizes. When foreign men-of-war run into Danish harbors they may be obliged to bring the prizes they may have taken with them, and shall neither unload nor load them, or sell them, wholly or partly, them or their cargoes.

In communicating this royal resolution, we will beg you kindly to communicate its contents to all the officials within your jurisdiction, that they may take cognizance of the same, and make known to all and every one that they are stringently forbidden to purchase prizes brought in by foreign privateers.

Certified by the expediting secretary in the ministry of justice, March 26, 1867.

*Instructions for the guidance of commanders of Danish ships of war during the Crimean war.*

1. At the station at which you are placed it is your duty, with the ship under your command, in the best manner to preserve good order on the coast and in the roads and harbors, to take measures that trade and navigation is carried on in its usual uninterrupted manner, without suffering molestations from the men-of-war who may be on the spot.

It is desirable that foreign men-of-war should always find Danish men-of-war in their neighborhood, whenever they appear in our waters, and you will therefore, as soon as you ascertain that foreign ships of war are in the waters of your station, approach them and follow their movements. The ship under your command should properly be considered as a guard-ship in the station, for which reason you will also, when at anchor, fire off watch signals, &c.

2. You must show foreign men-of-war, of whatever nation they may be, with which you may come in contact, all possible attention and politeness, but you must abstain in every manner from giving them assistance, except such as humanity may call for, especially you must not assist them in their navigation, by procuring for them local pilots or by other nautical assistance.

3. In case where foreign men-of-war have communication with land, you will give over the keeping of order on shore to the proper police authorities or harbor officials, but you shall in word and deed render assistance everywhere where it may be required, and where conflicts may arise either by reason of misunderstandings, want of knowledge of the language on the part of the one side or the other, or on account of possibly exaggerated claims on the part of the foreign ships. You shall in these cases come forward as mediator to clear up matters, and indeed act as a reconciliator, but be at the same time decided and serious everywhere where the question is to keep up or make good the right of the King's subjects and the neutrality of the Danish territory.

Danish mile =5 English miles. 4. The Danish territory extends one Danish mile from the *terra firma* of the King's country, (see the circular from the ministry of August 18, 1810;) excepted herefrom, however, is the sound at Kronborg and the Elbe at Glückstadt, where Danish territory only stretches a cannon shot from land, or 2,000 yards. 3,000 ells.

5. It is the will of his Majesty the King that the ships of all nations shall be under the protection of Denmark when in Danish territory and within its territorial limits, within which the Danish neutral rights must be maintained, so that the bringing up or visiting of ships, be they belligerent, neutral, or national, shall not be permitted within these territorial limits.

6. The bringing of prizes into Danish ports is forbidden. When prizes are anchored in open roads or off the coast of the Danish territory, it must be supposed that this occurs only from the force of circumstances; but you shall then request the bringer up or prize-master to take away the prize as soon as possible, and you must watch with care that nothing is sold or brought on shore or landed from the prize whilst it remains in Danish waters or territories.

The necessary warning in this respect shall be given in these cases as soon as possible to the proper authorities on shore.

7. If a ship of war or merchantman flying before an enemy seeks refuge in Danish territory, it is your duty to take it under your protection. It is to be hoped that a warning to the pursuing man-of-war (preferably by sending a boat with an officer on board, or, if necessary, by a warning signal) will be sufficient to ward off such a breach of neutrality; but should, contrary to expectation, a seizure or bringing up take place in Danish territory, you have then only, by a protest framed in a decided but serious and polite tone, to make known to the commander of the foreign man-of-war that he has committed a breach of Danish neutrality and territorial rights.

You will thereupon, as soon as possible, report to your government what has taken place, and send a copy of the protest, together with a statement of the name of the ship and its commander, &c., &c.

8. When foreign ships of war wish to run into harbors within the limits of your sta-

tion, you will watch that the ship conforms to the rules of the harbor, both as regards the local or general regulations, such, for instance, as discharging of gunpowder, putting out fires, &c., &c.

9. Privateers shall not be suffered within Danish territories, and still less shall they be permitted to run into any Danish harbor except in case of distress. It must then be stringently looked to that they deliver up gunpowder and weapons, and in every case conform to the police regulations of the harbor. Their stay in harbor shall not be suffered longer than absolutely necessary for their repairs.

If privateers should bring prizes into Danish territory they shall be immediately sent back.

Privateers on refusing to comply with these orders in Danish territory, necessary force shall be applied to enforce compliance; but you must, before you have recourse to force, carefully convince yourself that the vessel in question is really a privateer and not a man-of-war, and if you consider it necessary you may, for this purpose, demand to see the commander's commission or patent.

10. Outside of the Danish territory the sea must be considered as open water, on which account you will look upon every act of belligerent ships taking place outside of our territories as not concerning you.

Should, however, foreign men-of-war, in open waters, but within sight of you, overhaul Danish merchantmen, you must try and obtain permission for such vessels to proceed on their course, but in these cases you can only come forward as mediator. If the foreign inspecting man-of-war declares it to be his duty to bring up such vessels, and that this takes place on account of the ship being loaded with contraband of war bound for one of the belligerent's harbors, you cannot oppose it, but can only, as soon as possible, report the case to the proper government department. Should, contrary to expectation, a foreign man-of-war in your vicinity attempt to molest a Danish merchantman, for instance, by taking his crew, merchandise, provisions, or ship's space, or by attempting forcibly to take possession of the ship for his own purposes, such as the transport of sick or of booty, you must declare that, as you consider yourself bound to protect your countrymen's liberty and right to unhindered sailing on the sea, (a right which can only be limited by those general hindrances applying to all nations' ships in time of war,) it is your duty, on behalf of Danish vessels, seriously and earnestly to protest against every act which exceeds these limits.

Should this remonstrance not be attended to, you will at once make a formal protest against the proceedings of such foreign man-of-war, in which protest you will, besides giving notice that you consider that his mode of procedure is unauthorized, and a breach of Denmark's recognized neutrality, hold him responsible for the consequences of such an act. In every case the master or owner of the merchantman shall receive full compensation and indemnity for the loss of property or time occasioned thereby. You will protect Danish trade everywhere, and in every case against privateers, and, if necessary, use force.

The object of these present instructions is to give you decided rules for your guidance in certain cases; but the department has likewise hereby intended to give you a clue for action in all possible unforeseen contingencies, in which it will be your duty to act with tact and care, together with gravity and decision. As a rule for such unforeseen cases, the department advise you the strictest neutrality, by abstaining from any sign of partiality for either the one or the other belligerent, be it either by word or deed. You must take care to have respected the Danish neutrality rights and the keeping of good order within the territories, showing every external sign of politeness and consideration in conformity with what the usages of ships of war require or call for.

*Translation of section 76 of the penal code of the 10th February, 1866.*

Whoever recruits men for foreign service, without the King's permission, while the country is at war, shall suffer the punishment of hard labor six years or less; if in time of peace, the penalty shall be two months' imprisonment, or two years of hard labor.

Any subject who enlists in time of war, without royal permission, in the service of a foreign power not at war with Denmark, is liable to imprisonment or hard labor for one year or less, according to the nature of the case.

The act of recruiting is consummated by the person's accepting foreign service.

FRANCE.—No. I.

(Received from her Majesty's embassy at Paris.)

*Report from Mr. Treitt, counsel to the embassy.*

[Translation.]

PARIS, *February* 20, 1867.

Mr. MINISTER: In your letter of the 16th February, 1867, you ask about the laws, regulations, and other means used by the French government to prevent violations of neutrality by its subjects, on French territory.

Articles 84 and 85 of the penal code are the only regulations on the subject. They are as follows:

"ARTICLE 84. Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and, if war ensues, by deportation.

"ART. 85. Whoever exposes Frenchmen to reprisals, through acts not approved by the government, shall suffer banishment."

You will observe the generality of the expressions *whoever* and *hostile acts;* the words are not defined; their interpretation is left to courts of justice.

Articles 84 and 85 of the penal code do not refer to machinations and maneuvers for the benefit of a foreign power, with the intention to provoke hostilities. Such machinations, practiced with a criminal intention and purpose, come within the province of treason, and are to be corrected by articles 76 to 83 of the same code. Articles 84 and 85 apply only to cases of imprudence, rashness, or negligence; it is less the intention than the material fact that is punished. The law looks only to the result; thus: "Was France exposed to a declaration of war, and was war declared? Were Frenchmen exposed to reprisals?" The affirmative of these questions calls for the severest penalty of the law, as well as the payment of damages claimed.

Even death was proposed as a penalty in severe cases; but legislators agreed that transportation would be severe enough to restrain subjects from violation of neutrality toward belligerents. (See report of State Council, 9th January, 1810.)

In the application of articles 84 and 85 of the penal code three conditions are required: 1st. The act must be hostile; 2d. It must be without the consent of the government; 3d. France must have been exposed to a declaration of war, or Frenchmen exposed to reprisals.

I merely mention these three circumstances which are to be decided by courts of justice. If the judges decide that a certain act is not hostile, and does not violate neutrality, the government must respect that decision, and make it known to the complaining belligerent. If the accused alleges a tacit or express approbation of the government, he cannot be punished for his act.

In fine, if the hostile act does not cause reprisals or war, it is not considered criminal.

These articles relieve government greatly from the responsibility towards belligerents; but they serve, as an illustrious judge has said, to protect the morality and dignity of the nation.

In ancient times the guilty, or even the suspected, were given up to the vengeance of the complaining party; this is not done now, yet the complaints are satisfied. Such is the principle of articles 84 and 85; for without them satisfaction could not be easily given, and war would be inevitable, as a final argument.

There are but three noted prosecutions in court reports, under articles 84 and 85 of the penal code:

In 1824 a French captain, commanding a Colombian vessel, captured a Sardinian ship and exposed Frenchmen to reprisals.

In 1831 border residents attacked a Sardinian custom-house.

In 1834 some bankers effected a loan and furnished munitions of war to Don Carlos, who was fighting against the Spanish government.

We must not be surprised at the scarcity of these cases, for acts in violation of neutrality generally consist in the delivery of war implements and munitions. Now, as arms and munitions are not articles of trade in France, and are carefully watched by the government, it is hard to arm vessels or trade in munitions of war without the knowledge or consent of the government.

Articles 84 and 85 are the only laws against violations of neutrality that I can find in French legislation. I have examined the laws on maritime prizes, piracy, and the slave trade, and have found nothing else in relation to violation of neutrality. We must not confound this question with general rules in France, and with the law of nations on neutrality.

It has been rightly said that a serious hostile act may not bring on war between two countries at peace, when often a simple act may cause difficulties, if the two nations have hostile feelings towards each other.

The result of penal suits, therefore, must fix the meaning of articles 84 and 85, contrary to the received opinions that the intention makes the crime.

Other nations have like provisions in their penal laws: article 136 of the Prussian code punishes subjects who expose their fellows to reprisals; and article 37 of the Brazilian code punishes, with imprisonment of 1 to 12 years, whomsoever endangers the peace of the country and exposes Brazilians to reprisals. Treason there, as in France, meets the severest penalty.

Yours, &c.,

TREITT.

Hon. JULIAN FANE,
*Her Britannic Majesty's Minister at Paris.*

[Translation.]

Mr. MINISTER: In compliance with the request in your letter of yesterday, I send you the laws of the French government on neutrality, enacted the 10th of June, 1861.

I did not give them in my letter of the 20th February, because at that time no law, except the marine ordinance of 1681, related to neutrality, and I had to be brief to be intelligible. Those are the reasons why I only cited articles 84 and 85 of the penal code, that include all cases of violation of neutrality. Neither did I mention the declaration of neutrality of the 10th June, 1861, because it was officially announced to your government.

The facts about the Olinde, the Rappahannock, and other southern privateers, have come to light in Lord Cowper's correspondence; they were noticed in the public papers, and I supposed them well known in the foreign office.

I will hunt up the history of the privateers that are charged to France, whether they were finished, were in course of construction, or had gone out to cruise.

I will let you know as soon as I find out about them; I must say to you, however, that they made no noise, and are now nearly forgotten.

The neutral declaration of the 10th June, 1861, allows privateers to remain 24 hours in French ports. Several powers declared, during the Crimean war in 1854, that no belligerent privateers would be admitted into their ports, unless in cases of absolute necessity.*

That shows the progress of civilization till privateering is totally abolished.

Yours, &c.,

TREITT.

Hon. JULIAN FANE, *British Minister.*

## FRANCE.—No. II.

(Received from her Majesty's embassy at Paris.)

[Translation.]

*Mr. de Moustier, minister of foreign affairs, to Mr. Fane.*

PARIS, *February* 26, 1867.

SIR: In your letter of the 16th instant, you ask for the French laws and regulations about acts that might be regarded as violations of neutrality by belligerents, for the instruction of the Queen's commission, appointed to collect information on the subject.

Properly speaking, there is no French law or regulation defining neutrality between foreign belligerent powers; questions of that nature being mixed, are to be determined by the general principles of international law. Articles 84 and 85 of the penal code punish individual acts that provoke a declaration of war, or expose Frenchmen to reprisals: and article 21 of the Code Napoleon forbids Frenchmen from taking foreign service without permission.

We may quote article 3 of the law of the 10th of April, 1825, which treats as a pirate every Frenchman who accepts a commission as commander of a privateer from a foreign power.

We also cite article 67 of the commercial regulations of the 24th March, 1852, interdicting all French seamen from accepting foreign service, without permission; and certain paragraphs of articles 313, 314, and 315 of the code of military justice for the navy, about desertion abroad.

The ordinance of the 12th July, 1847, and the law of the 14th July, 1860, about war materials, is pertinent; and article 2 of the law of the 16th May, 1863, prohibiting the export of such articles.

I inclose you the texts of these laws.

Yours, &c.,

MOUSTIER.

Mr. JULIAN FANE.

* Ordinance of the senate of Hamburg, April 26, 1854; ordnance of the senate of Lubec, April 28, 1854; of Lubec of the same date; government of Oldenburg, April 20, 1854; the King of Sweden, April 8; Denmark, April 20; Mecklenburg, April 26; Hanover, May 5; the two Sicilies, May 17; Tuscany, June 3; Belgium, April 25; Sandwich Islands, July 17, 1854.

No. 13715.—*Royal ordinance in relation to the manufacture of arms and ammunition for trading vessels.*

NEUILLY, *July* 12, 1847.

Louis Philippe, King of the French, to all present and to come, greeting:

In view of the laws of the 22d August, 1791; 4 Germinal, year II; 19 Thermidor, year IV; 24th May, 1834, and 6th May, 1841; on the report of our minister of marine and colonies, and our state council consulted, we have decreed, and do decree, as follows:

ARTICLE 1. According to article 3 of the law of the 24th May, 1834, every person who desires to make fire-arms for trading ships must get permission from our minister of war for light arms, and from our minister of marine and colonies for cannon and ammunition. The petition must specify the quantity, kind and caliber of the arms, and the kind of ammunition to be made. Masters of founderies shall annex the drawings of the cannon they propose to cast, a model of the mould, and a sample of the material, to their petition.

ART. 2. After permission is obtained notice of it shall be given to the prefect of the department where the foundery or workshop is situated, in which the arms are to be made.

ART. 3. Arms and munitions of war intended for trading vessels shall not go out of the shop, nor be exported, without a permit from the prefect of the department; and carriers shall show this permit when required to do so.

ART. 4. On the arrival of such arms at their port of destination, they shall be stored in a public warehouse, in charge of a proper officer.

ART. 5. Before sold they shall be tested, according to instructions from the secretary of war, or secretary of the navy and colonies, according to the kind of arm.

ART. 6. The officer testing them shall decide whether they are to be accepted or not. If rejected, a certificate to that effect shall be given to the maker, who may appeal to the minister for a final decision.

ART. 7. The makers shall pay all cost in these proceedings. The expenses of artillery officers who make the test shall be paid by the government.

ART. 8. No arm shall be taken from the storehouse except by a permit from a naval officer; and the maker or his agent shall state the names of the freighters of the vessels that are to take them. A copy of this permit shall be sent by the officer to the collector of the port where the vessels are loaded.

ART. 9. Cartridges and other munitions of war shall be stored as mentioned in article 4, and must be put on board when the vessel is ready to start, under conditions to be mentioned hereafter.

ART. 10. An officer of the navy at the freighting port shall issue the permit to load trading vessels with arms; and the permit shall specify the quantity of arms and the probable length of the voyage.

ART. 11. The presiding officer shall see that the arms are not too many for the size of the vessel and number of the crew; and shall see that the cannons be mounted.

ART. 12. The freighters shall sign a bond before the collector of the port, to give a true account of arms and munitions that pass through their hands, by exhibiting all the papers in relation to them; and this obligation may be canceled by the collector on the return of the vessel from the voyage; and the number, kind, caliber, and value of the arms and munitions embarked, must be set down on the crew-list of the vessel.

ART. 13. When the ship is disarmed its armament shall return to the stores mentioned in article 4; yet the naval officer may allow the freighter to keep the cannon on board.

ART. 14. Every violation of article 12 shall be punished by laws against the export of arms and munitions of war. The custom-house collector is ordered to bring the suit.

ART. 15. Violations of the other articles of this decree shall be punished by the law of the 24th May, 1834.

ART. 16. Our ministers of war, navy, and finance are charged with the respective enforcement of this ordinance.

Done at Neuilly the 12th July, 1847.

LOUIS PHILIPPE.

By the King:

MONTEBELLO,

*Duke, Peer of France, and Minister of Marine and Colonies.*

No. 7853.—*Law in relation to the making and vending of fire-arms, of the 14th July,* 1860.

Napoleon, by the grace of God and the national will Emperor of the French, to all present and to come, greeting:

We hereby sanction and promulgate as follows:

[From the report of the Legislative Assembly.]

TITLE I.—*The making and vending of fire-arms.*

ARTICLE 1. Any person can make arms or trade in them, by permission of the secretary of war, under conditions specified in the laws and department regulations.

The arms or pieces of arms made in licensed establishments are intended solely for export, except those ordered by the secretary of war for state use.

ART. 2. War arms are those used by French or foreign soldiers; and every arm, large or small, that may be used in war, is called a war arm.

Boarding arms and trade arms are considered as war arms, and are subject to the same regulations.

ART. 3. The permit mentioned in article 1 cannot be recalled by the secretary, unless the maker or vender has violated articles 13, 14, and 15 of the present law, or the law of the 24th May, 1834, or has committed certain crimes and offenses, as in articles 86, 101, 209, 210, 211, 215, and 216 of the penal code; or against the law of the 7th June, 1848, concerning riots; or against articles 1 and 2 of the law of the 27th July, 1849; or against articles 1, 2, and 3 of the law of the 27th February, 1858.

ART. 4. Every licensed maker or vender must have a register, each leaf to be signed by the magistrate, containing daily accounts of the arms made, bought, or sold, where they are sent and to whom sold.

The mayor shall examine and certify this registry once a month, or in his default, the police commissary may do it.

ART. 5. The minister of war, or in case of necessity, generals of divisions, may dictate measures for the public interest or safety in relation to arms stored in their district.

ART. 6. All barrels of war guns, or those intended for export, must be tested, and stamped in proof of it. They shall also have an export stamp on them.

TITLE II.—*Import, export, or transit of fire-arms.*

ART. 7. No arms or parts of arms can be imported without a permit from the minister of war.

ART. 8. Especial provisions shall say where imported arms or parts of arms may be stored. These arms or parts of arms may be regulated by article 5, for public safety.

ART. 9. War arms, or parts of arms, may be exported on conditions specified by law or regulations. An imperial decree may forbid their export, for a certain time, over a particular frontier. Decrees shall say through what custom-house they may pass abroad. When the export to a certain place is forbidden, the exporters, under penalties specified in article 4, title III, of the law of 22d August, 1791, must show that the arms were sent to a lawful destination, by giving bonds, to be canceled at the custom-house whither they are sent, by French consular agents there.

ART. 10. A permit from the war department must be obtained for moving, sending from one place of storage to another, or re-exporting, all arms or pieces of arms. If their export to a certain place is prohibited, permits for that place, given before the prohibition, are of course void.

ART. 11. Lawful importation, exportation, or transit of arms, and their circulation on the frontier, are regulated by the custom-house laws.

TITLE III.—*Penalties.*

ART. 12. Whoever makes arms unlawfully, or trades in them without license, may be fined as much as 1,000 francs, and be imprisoned for one year or less.

Arms, or parts of arms, made or sold without license, are subject to confiscation, and the guilty may be put under guard for two years or less. In case of repetition, the penalty may be doubled.

ART. 13. The maker or trader who does not conform to article 4 of the present law may be fined 300 francs or less, and imprisoned three months. In case of repetition, this penalty may be doubled.

ART. 14. Every maker or trader who violates article 6 may be fined 300 francs, and his arms confiscated. In case of repetition, the penalty may be doubled.

ART. 15. Counterfeiting the proof or export stamp, or the use of such punches, may be punished by a fine of 3,000 francs or less, and imprisonment of five years.

ART. 16. Whoever takes and uses the true punches illegally, shall be fined as much as 500 francs, and imprisoned for two years.

ART. 17. Article 463 of the penal code applies to all the provisions of the present law.

TITLE IV.—*General provisions.*

ART. 18. The forms of petitions for license to make arms and trade in them are fixed by department regulations: the fees for testing and stamping; the transport inland; and the superintendence of the manufacture and sale of them.

ART. 19. The law of the 24th May, 1834, is not repealed, nor the laws and regulations concerning hunting, fancy, and prohibited arms.

ART. 20. All laws contrary to the present are hereby repealed.

Done in public session, at Paris, on the 20th June, 1860.

COUNT MORNY, *President.*

Count LOUIS DE CAMBACÉRÈS,
Count LEOPOLD LETTON,
Count JOACHIM MURAT,
*Secretaries.*

*Extract of the verbal process of the Senate.*

The Senate is not opposed to the promulgation of the law concerning the manufacture and trade of fire-arms.

Discussed and voted upon in the session, the 30th of June, 1860, in the Palace of the Senate.

TROPLONG, *President.*

A. LAITY,
Count DE GROSSOLLES,
FLAMARENS,
Baron T. DE LACROSSE,
*Secretaries.*

Seen and sealed with the seal of the Senate.

Baron T. DE LACROSSE,
*Senator and Secretary.*

Whereby we command and order that the present, authenticated with the seal of the state and inserted in the records of laws, be addressed to the courts, tribunals, and executive authorities, in order that they may be registered on their records, be observed, and caused to be observed; and our minister secretary of state of justice is charged to superintend the publication thereof.

Done in the Palace of St. Cloud the 14th July, 1860.

NAPOLEON.

By the Emperor:
ACHILLE FOULD, *Minister of State.*

Seen and sealed with the great seal.

DELANGLE,
*The Keeper of the Seals, Minister Secretary of State of Justice.*

FRANCE.—No. III.

(Received from her Majesty's embassy at Paris.)

*Report from Mr. Treitt, counsel to the embassy.*

[Translation.]

PARIS, *March* 3, 1867.

SIR: In compliance with the request in your letter of the 25th February, I sent you the French laws on neutrality; I now send you the particulars of six confederate privateers built in France.

On the 15th of April, 1863, a contract was made by James D. Bullock, confederate agent, with Mr. Arman, a ship-builder at Bordeaux and a member of the legislative assembly. It was not known that Mr. Bullock was acting for the confederate government at the time. The contract was to start a line of steamers between San Francisco and Shanghai, touching at Japan. Mr. Arman was to build four fast steamers, to carry 12 or 14 guns and 12 days' coal. The guns were said to be to defend them against pirates, and the ships were to be exactly like the French sloops of war. Two of the steamers, of 1,550 tons and 400 horse-power each, were to be built at Bordeaux by Mr. Arman himself. Mr. Voruz, also a member of the national legislature, was to build the other two in his yards at Nantes. All four were to be ready in 10 months. One million eight hundred thousand francs were to be paid for each of the vessels in five installments. Mr. Bullock was to furnish artillery, arms, projectiles, and powder.

On the 16th of July, 1863, another contract was made by the same parties for two iron-clad steam rams, with two turrets each, to be constructed on the same terms, at 2,000,000 of francs each. Their destination was not specified. Erlanger was Bullock's banker.

Jollet and Babin, in Bordeaux, and Dubigeot & Son, in Nantes, began the construction of the vessels at the same time, and immediately. Mazeline & Co., of Havre, were to make the machinery. I name these persons because they will soon appear as defendants in a suit by the United States.

The vessels were soon finished, and Arman applied to the secretary of the navy, in accordance with the ordinance of the 12th July, 1847, for a permit to arm them with 14 cannons, to serve in the Pacific. The permit was given on the 6th of June, 1864; the ships at Nantes were launched in April. Now Mr. Dayton, the American minister, informs the cabinet that these vessels were intended for privateers. Inquiry was made, and on the 22d October Mr. Arman and Voruz were prohibited from arming the vessels.

The friends of the north justly apprehended that the vessels would get out somehow and hoist the confederate flag, just as the Alabama, the Georgia, the Florida, and the Rappahannock had done in England.

Here is what became of those six vessels: the Yeddo and Osaka, built at Bordeaux, were sold to Prussia; the Shanghai and San Francisco were sold to Peru; one of the rams, the Cheops, was sold to Prussia, and the other, the Sphinx, was sold to Denmark and taken to Copenhagen. I don't know why the Danish government refused to receive it. It was then called the Olynde, furnished with Danish papers and crew, and taken back to Bordeaux. On the way, it stopped at the little island of Houat, not far from Quiberon, and took in coal, arms, and a confederate crew. The vessel then went to Corogne, Lisbon, the Azores, and Havana, where it fell into the hands of the Americans. Such is the story of those vessels. The Americans kept a constant eye on them, and France was not implicated, so there was no national quarrel about them. The Rappahannock got to Calais, and was there watched by the government; its damages are now charged to England.

Though the President of the United States did not complain of France, he brought suit against Arman, Voruz, Jollet, Babin, Dubigeot, Mazeline, Erlanger, and all who had a hand in the proposed privateers. He claims the sum of 2,880,000 francs, received on account of the vessels ordered. The suit is based on these articles of the Code Napoleon:

"ARTICLE 1376. He who receives by mistake or knowingly that which is not due to him, is bound to restore it to the party from whom he has unduly received it.

"ARTICLE 1382. Every action of man whatsoever, which occasions injury to another, binds him through whose fault it happened to reparation therefor.

"ARTICLE 1383. Every one is responsible for the damage of which he is the cause, not only by his own acts, but also by his negligence or by his imprudence."

The first of these three articles treats of the right to reclaim what has been paid unduly. Now, as the contract between Arman and Bullock is null, by French law there was nothing due by it, and what was paid ought to be restored. The two other articles establish the principle of the right to damages with interest, by plaintiffs against defendants, for acts or neglects. Such will be the argument of the prosecution, not yet begun.

The French law allows defendants to require security for costs of suit of *foreign* plaintiffs, if they fail in obtaining judgment; and Arman & Co. have asked for a cost bond of 150,000 francs in this suit. The President offers only 5,000. The court insists on 150,000. The President appeals; the appeal court confirms the original sum demanded, and the President must deposit that sum before the suit can begin.

Yours, &c.,

TREITT.

Hon. JULIAN FANE, *British Minister.*

FRANCE.—No. IV.

PARIS, *December* 4, 1867.

MY LORD: I have the honor to transmit to your lordship a further report from M. Treitt on the subject of the action brought by the government of the United States in the French courts against persons concerned in equipping armed vessels for the so-called Confederate States.

I have the honor to be, &c.,

LYONS.

The Lord STANLEY, M. P.

[Translation.]

PARIS, *December* 3, 1867.

MY LORD: On the 20th February and 13th March, 1867, I sent the French laws on the violation of neutrality to the foreign office, together with the account of the privateers which the southern States had armed, or tried to arm, during the secession war in America.

I announced at the same time that the United States were about suing several French ship-builders for the money they had received from southern agents, asking also damages and interest. The suit has already been instituted in the lower court of Paris, and will probably be tried next year.

Here is the substance of the argument for the United States:

When the war broke out between the north and the south, the French government proclaimed its neutrality by a publication in the Moniteur of the 10th June, 1861, forbidding Frenchmen to receive commissions or letters of marque for privateers from either party, or to take any part in equipping and arming a vessel of war or privateer for either belligerent.

Such violations were to be punished by articles 84 and 85 of the French penal code.

A similar declaration of neutrality had already been made by England.

Yet the Confederate States found men, both in England and France, ready to violate the laws of their country. The south sent Maury and Bullock to England, where they brought out the Alabama and Florida. Urged by the United States, the English government seized the Alexandra at Liverpool and the Pampero at Glasgow, and promised not to let two iron-clad rams, building in Liverpool, go out of their yards, thus shutting off the confederates from Great Britain. They then turned to France, and sought the aid of Mr. Lucien Arman, a wealthy ship-builder of Bordeaux, and a member of the legislative assembly.

The United States reproached this member for persuading the French government not to recognize the blockade of the southern ports, (see Moniteur, 13th February, 1863,) thus protecting his own interests with a veil pretending to be for the political and commercial interests of France.

In fact, Mr. Arman was at that time president of a company to build war vessels for the southern States. The ships were reported to be for a line of steamers between San Francisco and Shanghai. Bullock made his contract with Arman on the 15th April, 1863. Arman was to build two vessels in 10 months, and have two others built by Voruz, also a member of the legislature, in the same space of time. The two first were to be made at Bordeaux; the other two at Nantes, or rather at St. Nazaire.

Bullock's banker, Erlanger, signed as surety for the payments stipulated in the contract.

Arman is also accused of writing to the minister of marine on the 1st of June, 1863, for a permit to arm the vessels, telling him they were for a Pacific line, thus defrauding the government. The permit was obtained on the 6th June, 1863.

All this is proved by the United States through written evidence, amply corroborated. In a letter dated 12th June, 1863, Mr. Arman, moreover, offered to build six iron-clad floating batteries for the south, and to get a government permit to arm them in French waters.

The above facts were made known to Mr. Dayton, the American minister to France, by Mr. Bigelow, the consul, in September, 1863. Mr. Dayton communicated them to the government, and formally demanded a recall of the permit granted to Arman.

The effect of these communications on the French government may be seen in Mr. Dayton's dispatches of the 11th and 12th September, 1863, to Mr. Seward.

In a correspondence between the minister of foreign affairs and the minister of the marine, the latter says "he can only refer to the declarations of Mr. Arman and Voruz, and cannot be responsible for any illegal acts they may commit."

The French government instituted an inquiry, and Arman and his colleagues denied the facts, which were evident. On the 22d October, 1863, Mr. Drouyn de Lhuys wrote to Mr. Seward that Arman and Voruz were indignant at the charges made against them. The minister of marine withdrew the permit to arm the vessels building at Bordeaux and Nantes; yet Arman & Co. continued their operations.

In February, 1864, Arman introduced a resolution into the assembly to rescind the declaration of neutrality by the French government, but it was not adopted.

In a dispatch from Mr. Dayton to Mr. Seward, dated 14th February, 1864, the former says he regrets that Arman's proposed resolution was not discussed, as it might have brought out all the circumstances connected with the construction of those privateers at Bordeaux and Nantes.

To avoid responsibility, Arman & Co. reported to the French government that two of the iron-clads had been sold to the Danish government, and Mr. Drouyn de Lhuys so informed Mr. Dayton on the 4th February, 1864. Mr. Dayton wrote to Copenhagen, and found this was not the fact.

In April, 1864, Mr. Drouyn de Lhuys told Mr. Dayton the same ships were sold to Sweden on the 15th April, 1864; but the Swedish minister of foreign affairs denied it in a letter to the United States minister in Stockholm.

On the 12th May, 1864, the Crown orator assured, in the assembly, that Arman's vessels should not quit France "till proof was given that they were not to interfere with the belligerents in the United States."

After this, the Yeddo and Osaka were sold and delivered to Prussia in June and July, 1864. The San Francisco and Shanghai at Nantes gave almost as much trouble as the others, but finally they were sold to Peru in 1865.

Voruz says he returned to Bullock all the advances he made after the vessels were sold to Peru.

Now, there were yet two iron-clad rams to be built by Arman, by his contract of 16th July, 1863. These were the two said to have been sold to Denmark and Sweden. Here is their brief history:

One was called the Sphynx. On the 31st March, 1864, Arnous Rivière, Arman's agent, sold the Sphynx to the Danish government. The vessel was to be delivered on the 10th June, 1864, but it was not ready till the 20th October, when the Danish government refused to take it.

Arman, depending on the generosity of the Danish government, as he said, sent the Sphynx to Copenhagen under French colors. It changed its name there to the Stoer Kodder.

The Danish government, however, did not receive it, and it was taken back to France under Danish colors and papers, which were to be given up to the Danish consul in Bordeaux.

Mr. Arnous Rivière then took the vessel to the island of Houat, near the Quiberon peninsula. There the Stoer Kodder took the name of the Olinde, as a confederate war steamer. Mr. Dubigeon, of Nantes, sent coal out to it from Saint Nazaire, and an English steamer furnished it with arms and a crew. Captain Page took command. The crew was the same that belonged to the Florida.

After this the ram again changed names and took that of the Stonewall, and then went to Ferrol, in Spain.

All this took place in the month of January, 1865, without the knowledge of the French government.

France put the blame on Denmark for letting the vessel go out with Danish flag and papers.

The representative of the United States government tried to induce Spain to retain the Stonewall. It was suffered to go to Lisbon, but was soon sent away by that government. Two American gunboats, the Niagara and Sacramento, were on the lookout, and followed the Stonewall to Havana, where the Spanish authorities gave it over to the American agents. A correspondence on this subject took place between Mr. Drouyn de Lhuys and Mr. Bigelow. In a letter of the 10th February, 1855, Mr. Bigelow shows that the French minister of justice was cognizant of these facts, and Mr. Arnous Rivière did not deny them. He declared publicly that he was not guilty, and that he was ready for a suit at any time. He was not indicted.

The second ram, called the Cheops, was sold to Prussia. The French government undertook to inquire into the reality of this sale; for Mr. Drouyn de Lhuys "was unwilling to be caught again as in the case of the Stonewall," as Mr. Bigelow remarked in a letter to Mr. Seward, on the 17th March, 1865. Such are the representations of the United States against French justice, and upon them is founded the suit against Arman, Voruz, Dubigeon, Erlanger, and others. The suit has two objects: 1. A claim of property. 2. A claim for damages.

The first claim is for the money paid by the so-called confederate agents to Arman & Co., and which they retain illegally. The second is for damages, by article 1382 of the Code Napoleon, caused in 1863, 1864, and 1865, by violation of the laws of neutrality, the law of nations, and special statutes of France. To justify its claim for the money paid to Arman & Co., the government at Washington says it is money taken from the treasury of the United States by rebels, in States where the federal authority has never ceased; that their acknowledgment as belligerents by France does not affect the federal right; that France made that acknowledgment only to sustain its dignity and neutrality. The money in Arman's hands was paid by illegal contract, and consequently ought to be restored as the lawful property of the United States. This argument is sustained by quotations from the Constitution of the United States, from the Code Napoleon, from writings on the law of nations, from treaties, and many commentaries on the neutrality laws of different nations in former times. The United States contend that they have always observed neutrality, and mention the indemnity paid to English subjects in 1794 to substantiate the assertion. These subjects had suffered from French privateers that had been fitted out in the United States without the knowledge of the American government.

Other cases are cited by the counsel for the United States, to show how they have always respected neutrality. In 1853 they stopped the construction of vessels for Russia, before the war had begun; and in 1855 the Maury was detained on simple suspicion of fitting out for privateering.

The United States then show that the acts of Arman & Co. were illegal, contrary to the law of nations, and against the laws of France. So there is no doubt that the money paid to Arman on illegal contracts is wrongfully detained, and ought to be given up to the United States, particularly as Mr. Arman and his colleagues must know that, by articles 549 and 550 of the Code Napoleon, the holder of property in bad faith is bound to restore it to the lawful owner. It is for these reasons that the United States claim of Arman & Co. not only the sums paid, but interest from the time the money was deposited in France.

In the second place, the United States claim 2,800,000 francs damage from Arman & Co. This demand is founded on article 1383 of the Code Napoleon, which says: "Every action of man whatsoever which occasions injury to another, binds him through whose fault it happened to reparation thereof."

Here is the statement of the damage to the United States: Arman & Co., enjoying an official position in the political world, pretended to act with the secret consent of the French government, thus giving hope of French intervention to the rebels of the southern States.

The armaments prepared in France paralyzed American commerce to such an extent that northern shippers had to denationalize their vessels to save them from privateers fitted out in England and France; 715 vessels thus changed flags during the rebellion. (See letter of Mr. Seward to Mr. Bigelow, dated March 15, 1865.)

Arman & Co. were partly the cause of these apprehensions, causing a real decrease and consequent injury to American commerce, and of course they owe reparation for it.

The United States allege that 2,800,000 francs is but a small sum compared to the claims against England.

Such is the substance of the suit of the government at Washington against French ship-builders and freighters. I get them from the papers of the lawyers for the United States.

I do not know what defense Arman & Co. will make; it is thought they will except to the competency of French courts in a matter so entirely political. It is also supposed they will allege that if they have violated French laws the French government alone can call them to account for it.

That is all that is known about the defense. In the mean time I have thought proper to give you this synopsis of the prosecution, because there is a similar dispute about it between Great Britain and America.

This is a sequel to my former notes to the foreign office. I hope they will be found satisfactory.

TREITT.

His Excellency LORD LYONS,
*Ambassador of Her Britannic Majesty, Paris.*

FRANCE.—No. V.

*Extract from the Moniteur of April* 5, 1868.

[Translation.]

*Neutrals in the eastern war; a memorial read before the Academy of Sciences, by Drouyn de Lhuys, on the 4th April*, 1868.

All of you remember the circumstances that brought about the war of 1854, in the east. The proud Prince Menchikoff's mission to Constantinople, with its haughty demands, unmasked the Czar's designs, and united the western powers against the imminent peril. France, already engaged in the discussion of the affairs of the Holy places, did not hesitate to declare the part that the powers of western Europe would take in them against the unexpected claims of the court of Russia. England bravely took position by our side; Austria, Prussia, and most of the European nations were interested in this threatened balance of power, and openly sympathized with the defenders of the common interest.

Soon the situation, at first shaded by diplomatic negotiations, became apparent. Russia passed from words to deeds, and seized a portion of the Ottoman territory, thus giving the alarm to all her friends.

Austria, seeing her frontier menaced, gathered together her troops, determined to sustain her protest by force of arms. The moderation of France and England in advising the Sultan not to consider the invasion of his territory as an act of war, might have averted the catastrophe had not the glimmer from the conflagration of the Turkish fleet, bombarded before Sinope, proclaimed the necessity of war. The allied powers then thought of their duty to save Europe. The dismemberment of Turkey would have been a menace to France and England.

We all remember the anxiety and excitement of those times. Petty national disputes were laid aside, and we all joined for the benefit of civilization and humanity. One of the first considerations was the conduct of the allies towards neutrals. Opinions on this subject were divergent, yet the importance of the cause demanded a previous settlement of the question.

The history of late times shows, by sanguinary testimony, how Great Britain and France differed in their conception of rights and duties of maritime powers in time of war. The dissentions of the two nations on that subject were exhibited in continual contests for the supremacy of rival legislation.

When the Crimean war was about to open the laws on neutrality were, in substance, as follows: Supported by the acknowledged right to cut off an enemy's resources by the destruction of his sea-trade, but respecting a neutral flag, France considered it lawful to capture vessels of the enemy, with all the goods aboard, even those belonging to neutrals, while the property of enemies was not to be taken if found on vessels of friendly powers.

England, on the other hand, paid no attention to legal fictions, but assumed the right to search every vessel on the high seas, and confiscate the enemy's goods found thereon, no matter what flag waved over them.

It was also the custom of Great Britain to prohibit neutrals, in time of war, from a trade that the belligerents reserved for their own subjects in times of peace, as the coast trade and colonial commerce.

This principle was established, first, at the commencement of the seven years' war, and has been since continued by the English under the name of the rule of 1756. The English also had usages in blockade, against which we had always protested in our foreign wars. While proscribing paper blockades in theory, they declared blockades by a single ship. We remember that the continental blockade, the great trick at the beginning of this century, was provoked by outrages for which the British government had set the example.

Such were the discordant usages we were trying to reconcile. On the first of January, 1854, the French minister of foreign affairs mentioned to the British minister in Paris the importance of settling a question of such moment to neutrals.

To do that, he said, no absolute principles could be determined, for the principles of each nation were so strenuously maintained that a positive agreement could never be effected. Theories were to be kept, but a common practice must be established. Now this could only be done on the condition that neither nation would make use of practices condemned by the other, while the war lasted. Each party could abstain from enforcing rights arrogated to themselves, without harm; whereas, neither could exercise privileges deemed illegal by the other party, without contention.

Such a compromise left doctrines whole, principles intact, and gave no umbrage. Gratefully accepted by neutrals, it suited the interests and liberal intentions of the allies.

This language, while it implied a relinquishment on our part of some privileges claimed by our navy, still harmonized with our national traditions that favored neutral rights and freedom of the seas. We were prompted to do this by the peculiar situation of affairs. The greater part of Europe lauded the fact of France and England marching to the aid of an oppressed ally, and this sentiment was a help to the two nations, giving hopes of more substantial aid in future. One of the happy consequences of this attitude was, it allowed them to declare the alliance open to other nations, who might feel a general interest in the common welfare, on the same terms they had accepted.

We all know what weight the opinion of neutral powers had in that war, and how much general sympathy of some, and adhesion of others, placed France and England foremost, and secured the success of their arms. The German courts especially did much good by their resolutions on the progress of events. When the crisis began, Germany was too submissive to our mighty adversary to declare against him openly. We had to temporize with her as well as with all the Scandinavian nations, whose geographical positions were of the utmost importance to us. Stockholm and Copenhagen were still attracted towards Petersburg by the recollection of the armed neutrality in 1780 and 1800. Those acts had been suggested by Russian policy, and if we again provoked them, might we not arouse the same resistance and force them to side with our enemy?

The United States of America gave us the same cause of uneasiness. Russia courted their favor, and agreed with them in the interpretation of maritime laws. The great power of the New World had always sustained the rights of neutral flags; so we could not oppose this, and give her an excuse for turning against us.

England was not insensible to these considerations; but she insisted that she could not give up the observance of the inviolable rules of her old maritime law.

In the mean time Denmark and Sweden had given official notice of their intention to remain neutral in case of war. The minister of foreign affairs, writing to London about that communication, used it to induce the British cabinet to solve the questions it contained. On the 4th of January, 1854, he wrote to our ambassador as follows: "Try to find out what the English government is going to do about neutrals. We have always differed from England on that subject; and I have reason to think, from what I have seen in the papers, that merchants would not like to see the old English law applied in all its rigor. Without open discussion, I beg you will collect what information you can on the subject, and find out what England expects of Denmark and Sweden in regard to neutrality. Lord Clarendon knows that Russia is much displeased with those two powers, particularly with Sweden, for her declaration of neutrality. This is another reason to believe in the sincerity of the cabinets at Copen-

hagen and Stockholm, and a good reason why we should not increase the embarrassment of their position by too great exactions."

On the 12th of January again wrote to London, inclosing a copy of the dispatch which he proposed to send to Stockholm and Copenhagen: "I hope Lord Clarendon's answer will satisfy Sweden and Denmark in regard to their neutrality. I know England will adhere to her old maritime laws; but I hope she will try to agree with us in practice, if war breaks out. It will be the best method to secure the sympathy of those two courts, particularly as they have no very good feeling for Russia. Though this independence is a power to St. Petersburg, the court there does not consider it such. We must not watch too closely the trade from Sweden and Denmark to Russia, lest we disturb relations that are now entirely satisfactory. I know that Sweden confidently expects free trade under a neutral flag."

What particularly disturbed England was to see America incline to our enemy, with a prospect of aid with hardy volunteers. The seafaring people of the United States, with their strong navy, might furnish Russia with privateers, to cover the sea and disturb our commerce in its most distant corners. To avoid this, London had to flatter the federal government. It determined to propose to all maritime nations the abolition of privateering, and to treat every vessel cruising with letters of marque in time of war as a pirate.

This project, though afterwards abandoned, shows how concerned the English were about it. We agreed with them in holding that privateering was a barbarous practice for gain, masked by the pretext of patriotism. In former times it gave some heroic names to history; but we want no such materials for history now. It is no longer compatible with the uses of civilized nations that do not allow rights of war to individuals, but reserve them alone for regularly constituted nations.

If we had less to lose than England in this contract, it was not from ambition, but from necessity. To reconcile two different practices, extreme indulgence was necessary. It was not simply a question of interest and convenience, but a logical law. England could not ask us to adopt a law we had always condemned. We might have replied: If we must agree, you must consent to seize neutral goods under hostile flags, as we do. Then they would have answered: But we hold that neutral goods are inviolable everywhere, and under all circumstances; we have proclaimed this a thousand times; and now, just to agree with you, we cannot assume a right which we have always condemned.

The friendly relations with our allies, increasing daily, authorized us to press our propositions. While this subject was in discussion, the two governments showed their mutual friendship by instructing their diplomatic and consular agents, their colonial governors and their naval officers, to extend reciprocal protection alike to English and French in every part of the world. Thus, to the world, the English and French flags were united, and this only rendered concerted action more urgent. The anxiety of private interests, the pressure of public opinion, the needs of commerce, required an end to uncertainty. The matter was discussed in the British Parliament the latter part of February. One of the Crown ministers stated that the Queen would publish her intentions towards neutrals before war was declared, and the French minister wrote to our ambassador, on the 1st of March, as follows:

"I hope England will not decide on this matter without consulting us. It would look bad for two countries, united in one war, to differ in theory and agree in practice. Please call Lord Clarendon's attention to this. I think it would be well to instruct our naval commanders how to act towards neutrals in the Black and Baltic seas, without declaring any specific law on the subject, to frighten those who did not understand it. In this way France and England would reserve their particular doctrines, and agree in practice, that might be altered according to circumstances."

To the above dispatch, containing the conversation between the minister of foreign affairs and the English ambassador in Paris, the British government replied that Crown lawyers had been consulted, and a decision would soon be rendered, but certainly not before consulting the government of the Emperor. It was hoped some general principles could be agreed upon, and similar instructions given to the naval officers of each nation.

Several days after, on the 4th of March, Lord Cowley told the minister of foreign affairs in Paris that his government would confine search on the high seas to ascertaining the nationality of the vessel and seeing that there were no contraband goods nor hostile correspondence on board. He admitted that neutral flags protected hostile goods, and that neutral goods were safe under hostile flags. He also declared that no letters of marque should be issued, and that all subjects caught with them should be treated as pirates.

This document, considerably modified before it was sent to Paris, contained important concessions. It was new for England to agree to respect hostile goods under neutral flags. This was to conciliate neutral powers, whose flags had been so often insulted by its privateers in late wars, and to smooth over the vexatious right of search, that had been the terror of non-belligerents of all nations. Still we wished to close the door

that was left open to too much abuse, and we demanded greater security for neutrals.

After a discussion of the subject by the French minister and British ambassador, the modified declaration was sent back to London on the 20th of March.

"This project (wrote the minister) has been carefully prepared by Lord Cowley and myself. I have sent it to the minister of marine for his opinion on it. I think we will have to agree upon a declaration applicable only to this war, agreeing in action but differing in doctrine, and one that will not compromise neutrals."

On the 24th of March the minister of foreign affairs wrote to Count Walewski, our ambassador in London, as follows: "Lord Cowley's observations on a declaration in relation to neutrality, sent to you on the 20th, merits a criticism, which I will now make.

"If the English government wants its declaration to say 'that it reserves the application of such or such principle,' or 'that it renounces for the present the exercise of such and such a right,' thus showing the principle to be recognized and the right claimed, two declarations will be necessary, similar in doctrine but differing in form. The French government cannot say 'it renounces the exercise of a right' it never claimed; nor 'that it reserves the application of a principle' it has always refused to recognize. This is a mere question of form; what is of real importance is the agreement on some practical rule for our conduct in this war.

"I now pass to two important points, to which I beg you to call Lord Clarendon's attention.

"The first relates to neutral goods seized on board hostile ships. The project I sent you declares they shall not be confiscated. That is a serious question for the French government. In fact, it is feared that hostile goods or hostile vessels may be transported without risk by means of forged neutral papers; and as French laws confiscate hostile vessels and their neutral goods, a new law would be necessary to deprive seamen of their prize-money coming chiefly from that source. I shall have to consult the minister of the marine about it, and this I cannot do until I learn the definite intentions of the British cabinet.

"The English government seems to insist that the proposed declaration shall forbid neutrals, in war time, from engaging in colonial or coast trade, if they are reserved during peace.

"It is hardly necessary to remind you how persistent the French government has always been in sustaining the remonstrances of neutral nations against the adoption of that rule. France is therefore bound by historic precedents, as well as by treaties with other nations, in which she promised to allow all ships to trade freely in time of war, even between hostile ports. How could we now agree to a provision refusing neutrals a right we have always claimed for them, and which we have solemnly proclaimed in our treaties?

"I only mention cursorily the interest that this question has for France, and the consequences of the adoption of the proposed regulation. England, that always admits foreign flags to participate in colonial and coast trade, has nothing to dread from the application of this principle; but France, that reserves such trade for her national vessels, may eventually suffer from its application.

"I question if the insertion of such a principle in the declaration would be of benefit in this war. In peace times, Russia reserves colonial and coast trade; but in the Baltic the coast trade has so few ports that they could be completely closed by blockade. The same may be said of the Black Sea ports, now controlled by the combined fleet. As to trade in Russian America, now monopolized by a company, if it should be held by vessels of the United States it might arouse serious disputes with France; for, in her treaty of 1778, with the United States, she allows neutrals to trade at reserved ports in war time.

"I am pleased to see that England has done much to accord with the French doctrines, and you may assure Lord Clarendon that we are willing for a mutual compromise. We have given a proof of it in the question of neutral goods on hostile vessels; but I am sure Lord Clarendon will not expect us to allow neutrals to trade at reserved ports. The English government, considering the proposition as founded upon the law of nations, may readily renounce it without injury to its system, while France cannot make a rule which she cannot apply without violation of her principles.

"I beg you will place these remarks before Lord Clarendon. I hope they will induce him to leave out of the English declaration a rule that France cannot put in hers. Both nations, up to this time, have endeavored to agree, and it is to be hoped that minor questions will not now disturb their unanimity. If the two countries cannot adopt the same principles on certain points, they should avoid proclaiming different ones.

"Please let me know, as soon as convenient, the result of your conference with Lord Clarendon on this subject."

The tender points touched upon in this dispatch made England hesitate.

On the 26th of March, the minister of foreign affairs telegraphed to Count Walewski thus: "Insist upon the serious inconsistency of discordant declarations that would

spread doubt of a good understanding between the two countries; would alarm neutrals, and would cause inevitable conflicts between commanders. If Lord Clarendon accepts the principle of a joint declaration with separate minute instructions, ask him to communicate the fact to me immediately, so that I may come to an understanding with the minister of marine."

Here is what the minister wrote on the 27th: "My late interviews with Lord Cowley have been confined to the important and delicate question of the rights of neutrals. Lord Clarendon must have been informed of the subject of these discussions, and I know the English embassador has already sent him the substance of the declaration we have agreed upon; and so he must have been prepared for the dispatch of the 24th of this month, intended to effect a definite settlement of opinions. My telegram of yesterday showed you the interest the government of the Emperor takes in the settlement of such an important question, now that the war has begun. I hope you will persuade the secretary of state to relinquish his project of publishing two distinct declarations. We would regret to see England adopt measures, at the very beginning of the war, that would indicate a misunderstanding between the two countries, and thus weaken the effect of our supposed unity.

"If we come down from important principles to minor details, the danger is not less perceptible. Neutrals may choose between the declarations of France and England; and they will certainly select those that are the most consistent with antecedents and most favorable to them. Would it not be better to insure them safety in the unity of the two navies, and not force them off by reviving old quarrels?

"On the other hand—and this is not one of the least objections to Lord Clarendon's system—how could naval commanders agree in practice, of principles so discordant in theory? Disputes would be constantly arising between them, to the danger of the success of their operations.

"The United States are ready to take the part we refuse, and make themselves protectors of all neutrals that ask their aid. The Washington cabinet has already proposed to us a treaty of friendship, navigation, and commerce, containing a series of articles affirming principles it has always sustained, and which do not differ from ours. Her Britannic Majesty's chief secretary of state knows we cannot refuse this, even if France and England adopt opposing principles in this joint war. But if the two nations agree upon a common declaration, then we may postpone the consideration of the American proposal. This reasoning must strike Lord Clarendon, and I hope he will accept a project to be applied only in this war, and that will not affect the doctrines of either nation. Instructions to the commanders of the war vessels of both nations would make up deficiencies in the declarations; but these instructions should be drawn up in concert; and you may assure Lord Clarendon that the minister of marine will do all he can to agree with the English admiral in the instructions he gives to our admirals."

On the same day the minister sent a new draught of a declaration to London. It contained a brief preamble, bringing together, as nearly as possible, in form and substance, all the English ideas. He wrote about it as follows:

"This declaration, which I have agreed upon with the minister of marine, does not pretend to consecrate the essential principles upon which the accord of the two governments is based; separate instructions will regulate the application of them by law, and thus settle the discrepancy of doctrines that cannot be arranged at present."

On the 28th March, Lord Cowley wrote that his government determined to insist on prohibiting neutrals to trade "in transit, between two ports belonging to the enemy."

We could not accept that. The minister of foreign affairs said: "I regret that the English government forces us, by this, to make a separate declaration, the same in substance as that proposed yesterday, with the exception of a preamble which I have submitted to the Emperor. As you will see, I have obtained the marine minister's consent to exempt the seizure of neutral goods on hostile vessels.

"Lord Cowley has sent me the proposed instructions for commanders of English vessels, which were ready to be signed. Now it is useless to broach questions opposed to our principles in that declaration; all we can do is to make out instructions for our own vessels. I have ordered the minister of marine to do this, and I will send them to you as soon as they are made out. I hope there will be no serious difficulty in the execution of these instructions, as we agree upon the most essential points in them. I acknowledge the liberality of the English government in accepting our principles in matters of blockade."

Both governments regretted this disagreement upon small matters; but France was bound to other nations and could not break her treaties with them. In affairs where her latitude of action was not restricted, she showed her willingness to meet her ally half-way in liberalising old laws. Thus, in every proposal sent to London proposing to abolish privateering and other ancient customs of our navy, we always allowed neutral goods under hostile flags.

The British cabinet considered the dilemma of the situation. He was conscious of the absurdity of issuing two different declarations to be applied to neutrals under the same circumstances. A new conference was had at the last moment, and after a warm

discussion it was decided that the objectionable article should be expunged from the English declaration.

Now the understanding was complete. In a few hours, thanks to the telegraph, the two cabinets agreed, and announced the immediate publication of a joint declaration. The French copy appeared in the Monitor of the 30th March, 1854, dated the day previous. So you see there was no time lost. Here are the two documents; the first is preceded by a report to the Emperor:

*Report to the Emperor.*

"PARIS, 29*th March*, 1854.

"SIRE: At a time when maritime relations and commercial interests hold such an important place in the existence of nations, it is the duty of a nation at war to make its effects felt as little as possible, by allowing neutrals all freedom of trade not incompatible with the state of hostility, in which they desire to take no part.

"But it is not enough for belligerents to have the secret intention of always respecting the rights of neutrals; they must also endeavor to calm the suspicions of commerce, by leaving no uncertainty in the principles which they mean to apply.

"A regulation of the duties or rights of neutrals might seem an insult to the sovereignty of nations that wish to remain neutral; yet the spontaneous declaration of the principles which a belligerent promises to observe is the most formal pledge he can give of his respect for the rights of other nations.

"In this conviction, I have the honor to submit the following declaration, agreed upon with the government of her Britannic Majesty, to your Majesty's high approbation.

"I am, with respect, sire, your Majesty's very obedient servant and faithful subject,

"DROUYN DE LHUYS.

"Approved:

"NAPOLEON."

*Declaration relative to neutrals, letters of marque, &c.*

"His Majesty, the Emperor of the French, being forced to take up arms to sustain an ally, desires to render the war as little onerous as possible to the powers with which he is at peace.

"In order to avoid all unnecessary restrictions upon the commerce of neutrals, his Majesty at present consents to renounce a portion of the rights which belong to him, as a belligerent power, by virtue of the law of nations.

"His Majesty cannot renounce the exercise of his right to seize articles contraband of war, and to prevent neutrals from carrying dispatches from the enemy. He also insists upon his right, as a belligerent power, to hinder neutrals from breaking a blockade, formed by a sufficient force, before the forts, harbors, or coasts of the enemy.

"But his Majesty's vessels will not seize property of the enemy on board a neutral vessel, unless that property be contraband of war.

"His Majesty will not claim the right to confiscate the property of neutrals found on vessels of the enemy, unless it be contraband of war.

"His Majesty also declares that, moved by the desire to mitigate the ills of war as much as possible, and to restrict its operations to regularly organized national troops' he does not intend, at present, to deliver letters of marque to authorize the arming of privateers."

The day on which this declaration was published on both sides of the channel the minister of foreign affairs wrote to London as follows:

"I am much pleased with this proof of accord between England and France, on a question of such importance to the reserved rights of neutrals in this present war. This harmony will make a good impression abroad, and will win the sympathy of all the commercial nations of the world. Please say to Lord Clarendon that the Emperor's government is pleased with the action of the government of Queen Victoria on a matter he had much at heart, and that he considers its settlement on the present terms as one of the best results of the intimate reliance of the two countries."

The confidence expressed in this letter was realized. The new agreement on France and England on rules of maritime law was hailed by neutrals as the dawn of a day of justice and reparation. Protected from the harm of war, they had no fear of being dragged into another's quarrel, and could peaceably carry on trade in the midst of battles, provided no fraud brought down upon them the vengeance of the belligerents.

On communicating these dispositions to different governments, they were told that a strict compliance with the duties of neutrality was the condition of the advantages they accorded to neutrals. Such was the purpose of the following circular, sent by the minister of foreign affairs to all the agents of his departments accredited to powers not engaged in the contest. It bears date the 20th March:

"SIR: The declaration of the French government on the subject of neutrality, together with my report of it to the Emperor, on submitting it to his high approbation, was published in the Monitor of this day.

"The British government has also promulgated the same declaration.

"At a time when the two nations take up arms in joint defense of an ally, they cannot give a better proof of their unity of sentiment than by adopting similar resolutions on a subject about which they had hitherto differed.

"The government of the Emperor, knowing the care of France for neutrals, had studied the questions of neutrality, to decide them in favor of nations with whom we are at peace. The British government was also animated by the same desire, to leave neutrals in possession of all advantages that were not necessary to be restricted by absolute military necessity.

"This community of views dictated the declaration adopted by the two governments: and I do not hesitate to say that a document of such favorable terms was never before made up.

"The intention not to issue letters of marque is there officially announced.

"The necessity of an efficient blockade is admitted.

"Neutral flags will protect goods, and neutral goods will be safe under hostile flags.

"Such are the advantages that will be secured to trade during the war; and even after it is over, this joint declaration will remain as a precedent in the history of neutrality.

"But, as the union of France and England grants advantages to neutral nations, those nations must implicitly respect the rights of the belligerents. We have reason to hope that neutral governments will commit no hostile acts, and will force their subjects to observe a strict neutrality.

"I will soon send you a form of notice of this declaration, made out in consultation with her Britannic Majesty's government, for the government near which you are accredited."

A few days after, these documents were addressed to the same agents:

"PARIS, *April* 5, 1854.

"SIR: I have the honor to transmit to you the project of a note which you will address immediately to the government near which you are accredited, to inform it of the principles that France and Great Britain intend to apply towards neutrals during the present war, together with the resolution of the two governments not to issue letters of marque for the present.

"Her Britannic Majesty's representative will receive orders to address a similar communication to the government of * * *.

"You will send me the answer of the government of * * * as soon as you get it, and will see that it answers the expectations of the two governments."

*Substance of the note.*

"The undersigned is instructed by his government to address to your excellency the following communication:

"His Majesty the Emperor of the French, and her Majesty the Queen of the United Kingdom of Great Britain, find themselves obliged to resort to force of arms to repel the aggressions of the government of his Majesty the Emperor of Russia upon the Ottoman empire. Desiring to make the disastrous effects of war as light as possible on commerce, their majesties have resolved not to authorize privateering for the present, by the issue of letters of marque, and at the same time to make known the principles to be applied to navigation and the trade of neutrals during this war. With this design, his Majesty the Emperor of the French publishes the annexed declaration, identical with that published by her Majesty the Queen of the United Kingdom of Great Britain and Ireland.

"By confining their rights as belligerents to strict limits, the allied governments will depend upon the honest efforts of neutral powers in this war to make their subjects observe the strictest neutrality.

"Therefore, the government of his Majesty the Emperor of the French trusts that the government of * * * will accept these joint resolutions of the two allied governments, and in return will order that no privateer under Russian colors be armed, supplied, or admitted with prizes into the ports of * * *, and that its subjects rigorously abstain from taking part in armaments of this kind, or any other, contrary to the duties of a strict neutrality."

Thus, even in the details of their joint notice, France and England exhibited their perfect accord; and it was not disturbed by subsequent events.

Instructions were sent by the two governments to their respective naval commanders to reconcile any minor divergencies in their regulations, without appeal to the cabinets of Paris and London.

Neutrals took advantage of all the favors granted them, but did not abuse them; and during the whole war France and England had no cause to regret their generous resolutions. These new regulations, after trial by two great maritime powers, were universally accepted by other nations as a blessing.

In England, as well as in France, the commercial classes, far from feeling jealous at the security which this liberal principle gave to rival interests, rejoiced at the general development of trade produced thereby, and felt that it would finally redound to their interests. You will remember that the Universal Exposition of 1855, which took place in Paris while our land and sea armies were fighting in the Crimea and in the Baltic, furnished ample evidence of the vigor and success with which the labors of peace were prosecuted, even in the midst of a sanguinary war. The sight was glorious for the century that first produced it, and it was calculated to inspire a just confidence in the progress of the ideas which its triumph signalized. The cruel needs of war were confined to a specific circle, outside of which peaceful and laborious humanity preserved its rights.

The system inaugurated by the war of 1854 answered the common wants of all people so well that it readily assumed the nature of a definite reform of international law.

At the Paris peace congress of 1856, the members who had to discuss the results of the war naturally adopted the regulations therein practiced by the belligerent powers towards neutrals. This was expressed in the Paris declaration of the 16th April, 1856, which says:

1. Privateering is abolished and shall remain so.
2. Neutral flags protect hostile goods, unless contraband of war.
3. Neutral goods, not contraband of war, cannot be seized under hostile flags.
4. Blockades, to be binding, must be effective; that is, maintained by a force sufficient to prevent approach to the hostile coast.

All nations adopted this declaration except Spain, Mexico, and the United States of North America. The two first reserved the right to arm privateers, and agreed to the other articles. The United States would have accepted them all, provided an article to respect private property at sea had been added.

With the exception of these restrictions, the arrangements concluded in 1854 between England and France have fallen into the public domain, and are now placed under the authority of the law of nations.

This result was easy to be foreseen. When we began treating with England, at the beginning of the war, to soften its resistance and remove scruples, we insisted upon the transitory nature of the concessions we asked; but we knew they would become permanent by force of circumstances and unanimous consent. In fact, when common interests are developed for a certain time they soon become, under the protection of a more liberal system, the supports and defenses of the principles which first protected them.

DROUYN DE LHUYS.

## ITALY.

FLORENCE, *March* 2, 1867.

MY LORD: With reference to your lordship's dispatch marked circular of February 14, directing me to obtain official information respecting the neutrality laws of Italy, I have the honor to transmit herewith to your lordship copies, accompanied by translations, of the laws in force upon this subject, as well as the code of regulations for the Italian mercantile marine, containing certain rules to be observed by the superintendent of harbors respecting the sojourn in them of belligerent vessels of war, which have been transmitted to me by the Italian minister for foreign affairs.

I have, &c.,

HENRY ELLIOT.

*Circular of the minister of marine.*

TURIN, *April* 6, 1864.

In transmitting to your excellency the royal decree of to-day's date, on the neutrality of the ports of the kingdom, the undersigned thinks it opportune to accompany it with the present circular, which is intended to serve as a rule for the practical application of the regulations contained in the same.

The report to his Majesty, which precedes the decree itself, will make known to your excellency the fundamental principles of the international maritime law on which it is founded, as also the general rules which guide it.

Such rules and such principles, having been recognized by the publicists of all nations and of all epochs, are, moreover, borne evidence to by recent and analogous regulations which have emanated from the principal maritime powers during the last few years.

The state of neutrality which the government of the King intend to observe with respect to powers which find themselves in declared hostility to each other, imposes certain obligations on the belligerent parties, obligations which cannot be separated from the analogous rights which accompany them; and, therefore, in declaring the duties imposed by the most strict neutrality, it is necessary to mention, at the same time, the prerogatives which arise from such conditions. Thus, in forbidding Italian

subjects from taking part in any way whatsoever to the advantage or disadvantage of the belligerent states; in preventing that in places on the sea shore any commercial operations should be carried out which could produce harm to the powers which are at war against each other; in forbidding, under pains and penalties, that any citizens of the kingdom should take service on board the belligerent ships, refusing them also in such a case any protection on the part of his Majesty's government, and, on the contrary, leaving them under the jurisdiction of the laws of the other parties; it was necessary, on the other hand, to avoid the seas within the territorial jurisdiction of the kingdom serving as a field for hostile operations between the belligerent powers, or the ports and places of anchorage along the extensive Italian coasts serving to afford means of armaments, or being used as secure bases for hostile operations.

It having been agreed, recognized, and stipulated by international treaties that foreign subjects ought to submit to all the laws and regulations which relate to public security, and to the police of the country in which they sojourn or are domiciled, it follows as a logical and natural consequence that the laws and prohibitions contained in article 4 ought to be considered to extend to foreign subjects who happen to be in the kingdom.

The law of humanity, which suggests that in cases of danger even an enemy who was harmless should be assisted, finds its application in the 7th article of the accompanying decrees. To those ships or privateers of the belligerents who should be driven by stress of weather into the ports of the kingdom, or who should there seek refuge to repair damages or to procure provisions or commodities, to such ships it is impossible to refuse shelter and assistance. Nevertheless, the duties of humanity are confined to requirements necessary for safety of navigation, and do not extend to any request for means which could in any shape or manner increase the offensive or defensive force of the said ships.

Consequently, if in any port, roadstead, or coast belonging to your excellency there should come any ships of war, or belligerent privateers, for refuge against bad weather, or to repair damages it had suffered, or to procure provisions or materials indispensable for pursuing its voyage with safety, your excellency, in virtue of article 10, could not refuse such request, but would decline, according to the terms of article 9, to accede to any demand which could in any way increase the means of military offense or defense of the said ships.

The power of landing at or arrival in the harbors or coasts of the kingdom cannot, however, be granted to belligerent ships accompanied by prizes, except in the sole case of stress of weather. In the event of their being in need of repairs or provisions, they must first agree to set their prizes at liberty, and then their requests will be granted, but otherwise every assistance must be refused, the presence of a prize constituting a continuance of hostile operations within the waters under the territorial jurisdiction of a neutral country.

The second paragraph of article 10 provides that a supply of coal can only be granted 24 hours after the arrival of the belligerent ship which has made the demand. In this regulation your excellency will perceive that the undersigned has in view to prevent these sort of supplies serving for immediate offensive purposes against ships of the other belligerent party which might be followed by the one which made the demand for fuel, even though it might have been requested for security of its navigation. The period of 24 hours specified in the said article may, in special cases, be extended by the authority of your excellency, but may never be reduced.

The regulation of article 11 of the subjoined royal decree requires, besides its exact observance, that the marine authorities should use all possible care to avoid, in the way they carry it out, any opportunity for immediate hostilities between the ships of the two belligerent parties. In interpreting the article 11 above mentioned, the state of the weather must be taken into consideration in determining the interval allowed to elapse between the departure from port of the first ship and that of the second. The reciprocal conditions of sailing and steamships must be kept in view, the sailing ship, in such a case, being first required to depart rather than that one possessed of mechanical motion, except in the event of the former being a mercantile steamer and the latter a public armed ship or a privateer.

On the arrival at anchorage of a ship of war of whatsoever nation, or in whatsoever locality of the kingdom, a copy of the accompanying royal decree shall be conveyed to it. If the said ship belong to a belligerent power, there shall be also given to it a copy of the inclosed schedule, with the request that the various columns may be filled up in the manner indicated. The same system will be followed towards privateers.

A copy of the said schedule will, as soon as it be filled up, be immediately forwarded to the undersigned in the proper way, the captains and officers of the port not omitting individually to inform the proper authorities under whom they are placed in order of departmental seniority.

The presence of considerable maritime forces in certain ports of the kingdom, as indicated by article 12 and specified in article 13, might in some cases hinder the free action of the government, and the undersigned, following the example of the measures pre-

scribed by other powers on this head, proposes that his Majesty should give his assent to the rules laid down in the accompanying articles.

While the rules contained in article 12 should be scrupulously observed, the naval commandants of the ports, specified in article 13, must use every precaution in applying them, in order to avoid misunderstandings, and to prevent the general maritime regulations from being viewed as bearing a character of mistrust.

Nevertheless, the captains of ports, of which mention is made above, upon seeing the approach of a squadron comprising more than three vessels of war, shall be careful not to await their entrance into harbor before communicating to them the disposition aforesaid, but shall meet them outside the harbor as soon as it shall be manifest that they intend to anchor, and thus inform them in good time of the rules which obtain in that port with respect to the presence of foreign naval armaments.

Should the squadron comprise three ships or less, then the captains of the ports, following the directions of article 14, shall go on board of the senior officer's ship, or the man-of-war should she be alone, and communicate to him the provisions of article 12 with respect to the stay of the squadron in the harbor.

From the second paragraph of article 12 your excellency will perceive that, with the permission of the government, ships of war, three or less in number, may be allowed to sojourn for a longer period than eight days in the ports mentioned in article 13.

Therefore, should the commander of the squadron express a wish to prolong his stay beyond the period prescribed by the rules, your excellency will inform the undersigned of the same as soon as possible, and await a reply, before requesting the commander to take his departure, even though the period of eight days were thereby exceeded.

Your excellency will gather from article 8 that the government are desirous of making an exception to the rules laid down by the royal decree in favor of those vessels of war whose mission is exclusively scientific; and this exception, made some years ago, is to be extended also to vessels belonging to a belligerent state.

This exception refers, however, solely to those vessels whose mission is altogether beyond suspicion, and already recognized by the government by diplomatic means, and has been assented to by them.

In such cases the respective captains of ports will be advised in time by the ministry of marine itself.

Whenever any doubt shall be entertained by the naval authorities as to the interpretation or application of the various cases contemplated in the articles of the said decree, they must refer at once to the ministry in writing, and ask for instructions and explanations.

CUGIA.

*Report addressed to the King by the minister of marine.*

TURIN, *April* 6, 1864.

SIR: The Paris convention of April 16, 1856, has established new bases of public laws in naval war with respect to neutrals and to belligerent powers.

Property belonging to the subjects of a state which remains neutral in war, even if embarked upon hostile ships, is now respected; nor does it constitute, any longer, in most cases, prize of either belligerent.

The obligations undertaken by the powers signitary to the above convention, and by the countries adhering to it, not to issue letters of marque to merchant ships, have also modified those principles of maritime law which refer to privateers and their prizes.

These principles, however, intended to diminish the losses sustained by private individuals during a maritime war, were not accepted by all naval powers indiscriminately, and for that reason the laws regarding privateering and its prizes contained in the various codes and regulations of maritime law could not be abrogated, being kept in reserve for such cases as those of a war with one of the countries which had refused its adherence to the principles laid down in the Paris convention.

This explains the motives why the maritime powers who framed these new bases of law should now also issue regulations regarding the armaments of privateers.

The conditions of the portions of North America at war induced, at the commencement of that struggle, the French government to declare in a note dated 10th June, 1861, and also the British government in a letter of 12th January, 1862, from the foreign office to the lords of the admiralty, what principles were to serve as a basis of neutrality to those governments during the disastrous war in America.

Recently, however, and in spite of this declaration, hostile enterprise was carried into the waters of the neutral European powers by certain vessels pertaining to these belligerents, which also sought to repair damages and obtain provisions in neutral ports.

Although the position of this kingdom may exclude the supposition that any of the armed vessels or privateers of the belligerent states of America might ever have occasion to approach the Italian coast under circumstances calculated to cause trouble to a neutral power, this supposition assumes another aspect when the movements of the

ships of war belonging to the northern powers of Europe are considered now even in a state of armed warfare.

These facts will doubtless compel the attention of your Majesty's government to the consequences which may ensue to a neutral state, and also to provide that while the duties of neutrality are observed, the rights which such a state insures to the neutral powers be equally respected.

While compiling the project of law which I have now the honour to submit to your Majesty, besides detailing the principles which should regulate the conduct of the maritime authorities, the seafaring population, and your Majesty's subjects, to preserve the strict limits of neutrality now to be the guide of the Italian government towards the powers at present at declared war, I think it right to declare what regulations are already in force in many harbors of the kingdom, sanctioned by previous law, and common to all maritime nations, whether as a special right obtaining on certain parts of the coast, (Quale perogativa propria su certi punti speciali delle coste,) or as being recognized by all those who have ever treated of international maritime law.

Whenever your Majesty will approve of the considerations which are the basis of the scheme of the following decree, I would humbly hope that your Majesty will deign to confer upon it your royal sanction.

E. CUGIA,
*Minister of Marine.*

VICTOR EMANUEL II, ELECT KING OF ITALY.

With reference to the royal patents of 24th November, 1827, which determine port regulations;

With reference to the penal law for the mercantile marine, dated January 15, 1827;

With reference to the royal decree of December 22, 1861, which extends the laws and regulations of the mercantile marine in force in the ancient provinces to all new provinces of the kingdom;

Considering the state of the existing relations between Italy and other maritime states which are in open hostilities;

Considering the rights reserved by international maritime law respecting certain special parts of the seaboard of any maritime state, tending to maintain and guarantee the state of neutrality of that kingdom towards belligerent powers; and to render valid, under all circumstances, those rights which might spring from or be derived from such a state, (of neutrality,) and also to preserve intact its liberty of action;

On the proposal of our minister of marine, in concert with our minister for foreign affairs, we have and do decree:

ARTICLE I. It shall not be allowed for any ship of war or privateer belonging to a belligerent state to enter into or remain with prize in any port or harbor of the kingdom, except in case of necessity.

ARTICLE II. In such exceptional cases, and under the conditions contained in the preceding article, ships of war and privateers must leave the coast of the kingdom as soon as the cause which forced them to seek shelter shall have been removed, and according to the dispositions of article XI.

ARTICLE III. No sale, exchange, transfer, or gift of objects of plunder shall be made under any pretext in the ports, harbors, or coasts of the kingdom.

ARTICLE IV. No Italian subject shall take commission from either belligerent power to arm ships for war, or to accept letters of marque to cruise, or assist in any way in fitting out, arming, or preparing for war a vessel or privateer of the said belligerents.

ARTICLE V. According to the 35th article of the penal code for the mercantile marine, no Italian subject shall be enrolled or take service on any ship of war or privateer belonging to either belligerent.

ARTICLE VI. No Italian subjects guilty of contravention of the rules laid down in the preceding articles 4 and 5, or who shall commit any act against one of the belligerent powers, contrary to the duties attendant upon the neutrality maintained by the Italian government towards the said parties, can claim protection against the acts or measures of whatever nature which the belligerents may deem right to enforce against them, and besides, they incur the penalties mentioned in article 5 of the present decree, according to the dispositions of the 80th article of the penal code for the mercantile marine, dated January 13, 1827.

ARTICLE VII. No belligerent vessel of war or privateer shall remain more than 24 hours in any port, harbor, or anchorage in the kingdom or adjacent waters, even though alone, except in cases of necessity caused by stress of weather, for repairs, or for want of necessary provisions for the safety of navigation.

ARTICLE VIII. Vessels of war belonging to a friendly power, even though belligerent, can anchor and remain in the ports and harbors of the kingdom, when their mission is purely scientific.

ARTICLE IX. In no case shall a belligerent vessel of war make use of an Italian port for warlike purposes, or for providing itself with arms and ammunition. Neither shall it, under pretext of repairs, do anything to increase its force in action.

ARTICLE X. There shall not be furnished to belligerent vessels of war or privateers other than provisions in portions for the subsistence of the crew, and the mere means for making those repairs actually necessary for the safety of the vessel. Belligerent vessels of war and privateers wishing to coal can only do so 24 hours after their arrival.

ARTICLE XI. When vessels of war, privateers, or merchant vessels of both belligerent powers shall meet in the same port or harbor of the kingdom, there shall be an interval of 24 hours between the departure of any vessel belonging to one power and that of any vessel of the other power. The local maritime authority has power to prolong this interval according to circumstances.

ARTICLE XII. In ports considered as naval fortresses or military fortresses, in anchorages where military or naval arsenals, dockyards, or other similar buildings, only three vessels of war belonging to the same power shall be there at once, and then for no period exceeding eight days.

This period can only be extended in cases of necessity or for the sake of repairs, under formal permission of his Majesty's government, to whom application must be made by the local maritime authorities through the minister of marine.

ARTICLE XIII. The ports and places of anchorage treated of in the preceding article are: Genoa, and adjacent waters towards the shore of Foce; the gulf of Spezia, Leghorn; Portoferraj; Naples; Baja; Castlelamare; Gaeta; Messina, (with the anchorages of Faro and Reggio in Calabria;) Milazzo; Syracuse; Augusta; Palermo; Frapani; Taranto; Brindisi; Ancona; Cagliari; Island of Maddalena.

ARTICLE XIV. The local maritime authorities of the plans mentioned in the preceding article shall, on the arrival of foreign vessels of war, present to their commanders, or commander of the squadron, a copy of the present regulations for their information, and request them to conform to them.

ARTICLE XV. All maritime authorities in the kingdom are expected to adopt strictly all the measures prescribed in the present decree, which shall take effect from the day of its publication in the various parts of the kingdom.

ARTICLE XVI. All dispositions at present in force, and which are contrary to those contained in the present decree, are hereby abrogated.

We command that this present decree, furnished with the great seal and registered at the court "*dei conti*," be inserted in the official collection of laws and decrees of the kingdom of Italy, desiring all it may concern to obey it and make it obeyed.

(Signed) VITTORIO EMANUELE.
(Countersigned) E. CUGIA.

TURIN, *April* 6, 1864.

***Extract from Italian naval code, Chapter VII—of the neutrality of the state towards belligerent powers.***

In case of war between powers towards which the state remains neutral, privateers, or vessels of war with prizes, shall not be received into the harbors or roadsteads, except in cases of stress of weather.

They will have to leave as soon as the danger has ceased.

No ship of war or privateer belonging to a belligerent will be allowed to remain longer than 24 hours in a port, harbor, or roadstead of the state, or in the adjacent waters, even when alone, except in cases of necessity arising from bad weather, of shipwreck, or of an absence of the means necessary to carry on the navigation with safety.

In no case will they be permitted, during their stay in the port, harbor, or roadstead of the state, to sell, exchange, or barter, or even give away, any of the prizes, (taken in war.)

The ships of war of a friendly power, even when belligerent, are permitted to touch or even to remain in any harbor, port, or roadstead of the state, on condition that the object of their mission be exclusively a scientific one.

In no case can a belligerent ship avail itself of an Italian port for the purposes of war, or of obtaining arms and munitions. It shall not be able, under the pretense of repairs, to execute any alterations or other works designed to augment its warlike force.

Nothing shall be furnished to vessels of war or to belligerent privateers beyond articles of food and commodities, and the actual means of repair necessary to the sustenance of their crews and the safety of their navigation.

Vessels of war or belligerent privateers wishing to fill up their stores of coal cannot be furnished with the same before 24 hours after their arrival.

In the case in which vessels of war, whether privateers or merchantmen of the two belligerent nations, are both together in a port, harbor, or roadstead of the state, there shall be an interval of at least 24 hours between the successive departures of the vessels of one belligerent and those of the vessels of the other.

This interval can be increased according to the circumstances brought before the maritime authorities of the place.

The capture of prizes, as well as any other act of hostility between two belligerent ships within the territorial waters or the adjacent waters of the islands of the state, will constitute a violation of territory.

## THE NETHERLANDS.

[Received from her Majesty's legation at the Hague.]

*Note from the minister for foreign affairs to his Majesty's chargé d'affaires.*

[Translation.]

THE HAGUE, *March* 6, 1867.

Mr. Ward's note of the 16th instant, asking information for his government about the laws, regulations, and other means that the Netherlands may use to prevent violation of neutrality within her borders, has been received.

In reply, the undersigned informs Mr. Ward that there is no code of laws or regulations in the kingdom of the Netherlands concerning the rights and duties of neutrals, nor any special laws or ordinances for either party, on this very important matter of external public law. The government may use articles 84 and 85 of the penal code; but no legislative provisions have been adopted to protect the government, and serve against those who attempt a violation of neutrality.

It may be said that no country has codified these regulations and given them the force of law; and though Great Britain and the United States have their foreign enlistment act, its effect is very limited. The Netherlands government has not yet thought proper to collect the regulations in relation to the rights and duties of neutrality; but has always scrupulously observed the principles of the European law of nations, and have published notices (as Great Britain and France did in 1861) to Netherland subjects not to carry dispatches or articles contraband of war, nor to break an effective blockade, nor to engage in privateering, nor accept letters of marque.

The admission of belligerent ships of war into our ports was regulated in the same manner, and the special instructions sent to our colonial governors, during the civil war in the United States, were communicated to the British legation on the 17th December, 1861.

Those notices were more extensive and precise last year. The government undertook to prevent the equipment of war vessels for belligerents in her ports. A copy of the Official Gazette, March 20, 1866, containing those notices, is hereto annexed.

Articles 84 and 85 of the penal code may be used as coercive measures to prevent violations of neutrality. For example, they might serve to prosecute those attempting to equip or sell vessels of war in our ports, for the benefit of belligerents. The vessels could then be seized as evidence, and their departure be thus prevented.

The undersigned requests Mr. Ward to communicate this to his government, and begs him to let this government know what articles are considered contraband of war by the cabinet at London.

Yours, &c.,

DE ZEYLEN DE NYEVELT.

*Translation of proclamation—Ministry of foreign affairs.*

As war is now existing between Brazil (in league with the Argentine Republic and Uruguay) and Paraguay, as well as between Spain and Chili, while Peru has declared war against Spain, the minister of foreign affairs and the minister of justice are empowered by the King to advise by these presents all inhabitants of this kingdom by no means to meddle with privateering, and to accept no foreign letters of marque. Should Netherlanders, who practice any such privateering business or lend a hand in it, be pursued before the Dutch authorities, the affairs of such people will be treated as criminally hostile, and will receive the punishment awarded by the law.

The above-mentioned ministers,

E. CREMERS.

THE HAGUE, *March* 17, 1866. PICKÉ.

In consequence of the commands of the King, the ministers of foreign affairs, of justice, and of marine, bring to the knowledge of all whom it may concern that, for the preservation of a complete neutrality during the war between the powers mentioned in the previous amendment, the following determinations have been resolved upon:

ARTICLE I. No ships of war or privateers belonging to one of the belligerent powers, with prizes, shall be allowed to come into Dutch harbors or estuaries, or remain there to refit, unless they are overtaken by evident necessity, such as misfortune at sea or want of provisions. They shall, moreover, so soon as the cause which delayed them be overcome, go on their way as speedily as possible.

ARTICLE II. Proclaiming prizes, the selling, bartering, or giving away of all prizes and of objects coming out of them, also of plundered goods, is forbidden in the harbors or estuaries of the Netherlands. It is also forbidden to unrig and sell ships of war or cruisers of the belligerent parties, also privateers, (so far as these are admitted,) unless

the government in ordinary circumstances gives judgment that the sale can take place without danger to the neutrality of the state.

ARTICLE III. Privateers, even without prizes, are not admitted into Dutch harbors and estuaries, except in the cases specified in Article I. The conclusion of that article is also applicable to this one.

They must take in no more provisions than they require for immediate use, of coal hardly as much as is necessary to supply their wants for 24 hours.

ARTICLE IV. The ships of war of the belligerent parties, provided they submit to the international regulations for their admission into neutral ports, may remain for unlimited time in Dutch harbors and estuaries; they may also provide themselves with an unlimited quantity of coal.

The government, however, reserves to itself the right, whenever it is thought necessary for the preservation of neutrality, to limit the duration of such stay to 24 hours.

ARTICLE V. When ships of the belligerent parties (either ships of war, cruisers, or merchantmen) find themselves at the same time in the same harbor to refit, or in the inner waters of the country, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and the following departure of a ship belonging to another belligerent.

This period of time may be lengthened, according to circumstances, by the maritime authorities of the harbors.

ARTICLE VI. It is forbidden to furnish to the ships of war of either of the belligerent parties weapons or ammunition, as well as to aid in any way to the increase of his weapons or accoutrements.

The above-named ministers,

E. CREMERS.
PICKÉ.

THE HAGUE, *March* 17, 1866.

The minister of war, charged ad interim with the department of marine.

J. W. BLANKEN.

The minister of foreign affairs thinks it his duty, in consequence of the war existing between the above-mentioned powers in South America, to call the attention of ship-owners, manufacturers, and freighters, to the dangers and difficulties to which they expose themselves if, putting themselves in opposition to their duties to the neutral powers, they do not respect an actual blockade, or transport contraband of war, soldiers, or dispatches intended for one of the belligerents.

In these circumstances the parties concerned will be exposed to all results proceeding herefrom, without any protection or intervention from the Netherland government, whatever claims they may make.

Also, the government will keep strict watch against the fitting out in this country of armed ships on behalf of the belligerent parties, or the taking part therein by Netherlanders.

The above-named minister,

E. CREMERS.

THE HAGUE, *March* 17, 1866.

[Translation.]

*Articles* 84 *and* 85 *of the penal (code Napoleon) book III, title I.*

ARTICLE 84. Whoever exposes the state to a declaration of war, by hostile acts not approved by the government, shall be punished by banishment, and, if war ensues, by deportation.

ARTICLE 85. Whoever exposes Frenchmen to reprisals, through acts not approved by the government, shall suffer banishment.

## PORTUGAL.

LISBON, *February* 26, 1867.

MY LORD: In reply to your lordship's dispatch marked circular, of the 14th instant, instructing me to procure information respecting the neutrality laws in Portugal, I have the honor to state to your lordship that I have this day received from the Portuguese minister a note, of which a copy, together with a translation by Mr. Duff, is herewith transmitted. Your lordship will perceive that its information is restricted to furnishing me with copies of the Portuguese declarations of neutrality, which are already in the possession of her Majesty's government.

I have, therefore, requested further information in a note, of which I beg also to inclose a copy, as to what are the laws, regulations, or any other means at the disposal of the Portuguese government for preventing within their territory any acts which would be violations of the Portuguese neutrality laws as contained in the declarations of neutrality, which M. Cazal Ribeiro has transmitted to me.

I have the honor to be, &c.,

A. PAGET.

The Right Honorable LORD STANLEY, *M. P., &c., &c., &c.*

FOREIGN DEPARTMENT, LISBON,
*February* 25, 1867. (Received 26th.)

MOST ILLUSTRIOUS AND EXCELLENT SIR: I received the note which your excellency was pleased to address to me on the 19th instant, wherein you inform me that inasmuch as her Majesty's government had appointed a commission to inquire into the neutrality laws in England, and were desirous to obtain information respecting the laws, regulations, or any other measures that may have been adopted in other countries upon this subject, they had instructed your excellency to point out to them what were the laws and regulations of Portugal for the purpose of preventing, within the Portuguese territory, any acts that might be considered to be a violation of the laws of neutrality.

And as your excellency requested me to forward to you copies of the laws and regulations to which you refer, as well as any other information that I might be able to furnish upon this point, I have the honor to state to your excellency that as Portugal professes the most liberal principles with regard to neutrality, and as it is desirous to co-operate towards the consolidation of those principles, and the securing of the freedom of the maritime trade and navigation of neutral powers, it did not hesitate, so far back as the year 1782, to accede to the declaration made by Russia on the 28th of February, 1780, to several powers, and to agree in the convention entered into with that empire, on the 12th of July of the above-mentioned year of 1782, to identical principles with those which are laid down in the second, third, and fourth articles of the declaration of the Congress of Paris of the 16th of April, 1856, on maritime law, a declaration to which Portugal fully and entirely adhered, because it was in accordance with the doctrines which it has for so many years professed with regard to neutrality.

Before the adhesion of Portugal to the declaration of the 16th of April, 1856, to which I allude, and at the time of the eastern question, the decree of the 5th of May, 1854, (of which a copy is inclosed,) was published in order that the most strict and absolute neutrality should be observed in this kingdom in regard of those powers which were then in a state of war.

On the 29th of July, 1861, the Portuguese government being desirous, under the circumstances which then occurred with respect to the United States of America, to enforce a compliance with the principles set forth in the declaration of Paris of the 16th of April, 1856, published the decree of that date, of which I also forward the inclosed copy to your excellency.

Finally, by the decree of the 2d of July, 1856, on the occasion of the breaking out of the war between Italy and Austria, as well as between Russia, that empire and other states of Germany, and of which a copy was sent to the several chiefs of missions of Portugal in order that they should communicate the provisions contained therein to the government to which they were accredited, your excellency will see what are the neutrality laws now in force in Portugal.

I avail myself, &c.,

CAZAL RIBEIRO.

Sir A. PAGET, *&c., &c., &c.*

BRITISH LEGATION, LISBON,
*February* 26, 1867.

M. LE MINISTRE: I have the honor to acknowledge the receipt of your excellency's note of yesterday's date respecting the neutrality laws of Portugal, and to thank your excellency for the documents with which you have been good enough to furnish me.

There is one point, however, upon which her Majesty's government are most desirous of information, to which your excellency's note and the inclosures it contains do not refer, namely, what laws or regulations, or any other means, are at the disposal of the Portuguese government for preventing within its territory any acts which would be violations of the Portuguese neutrality laws, as contained in the declarations of neutrality which your excellency has transmitted to me. If your excellency would supply me with this information I should be greatly obliged.

I avail myself, &c.,

A. PAGET.

H. E. M. CAZAL RIBEIRO.

LISBON, *March* 29, 1867.

MY LORD: With reference to my dispatch of the 26th ultimo, I have the honor to transmit to your lordship a copy, with translations by Mr. Duff, of a further note which I have received from the Portuguese minister respecting the neutrality laws and their enforcement in Portugal.

I have the honor to be, &c.,

A. PAGET.

The Right Honorable LORD STANLEY, *M. P., &c., &c., &c.*

FOREIGN DEPARTMENT, LISBON,
*March* 18, 1867. (Received 22d.)

MOST ILLUSTROUS AND EXCELLENT SIR: I had the honor to receive the note which your excellency was pleased to address to me on the 26th of February last, requesting

to be informed, in compliance with the wishes expressed by your government, what laws or means does the Portuguese government possess to enable it to prevent within its territory any acts of violation of neutrality.

In reply, it is my duty to state to your excellency that the laws and regulations in the matter are those which were inclosed in my note of the 25th of that month, or were mentioned in those documents, and the means of execution in the case of any violation of neutrality are—criminal proceedings, the use of force, complaints addressed to foreign governments, or any other means in order to meet some particular occurrence.

I avail myself, &c.,

CAZAL RIBEIRO.

Sir A. B. PAGET, *&c., &c., &c.*

## PRUSSIA.

[Received from her Majesty's embassy at Berlin.]

*Note from the minister of foreign affairs to her Majesty's ambassador.*

BERLIN, *March* 11, 1867.

The undersigned has the honor to state, in reply to the note of Lord Loftus, &c., of the 15th ultimo, that the decrees contained in the Prussian code of laws for preventing, during the war between foreign states, acts on Prussian territory which could be construed as an infringement of neutrality are partly direct and partly indirect.

A direct decree is contained in section 78 of the code of punishments of the 14th of April, 1851, by which hostile acts committed by a Prussian in his own country or abroad, or by a foreigner during his residence in Prussia, against a foreign state or its ruler, are punishable, if the same acts committed against the King of Prussia would be held to be high treason. But with respect to acts committed against non-German states, this decree is only enforced when reciprocity is guaranteed by public decrees or treaties.

The punishment consists in imprisonment in the house of correction for from two to ten years; but under extenuating circumstances, in confinement for one to ten years. Should the intention be discovered before the act is carried out, confinement from six months to three years.

It is stated in section 61 of what nature these hostile acts must be to render them liable to punishment, viz, every attempt which has for its object:

1. To murder the King, to take him prisoner, to deliver him into the power of the enemy, or to render him incapable of governing; or

2. Forcibly to alter the succession to the throne or the constitution of the state; or

3. To incorporate, either entirely or partially, the territory of the Prussian state into a foreign state, or to separate a portion of territory from the whole.

Furthermore, in section 111, whoever enlists or causes the enlistment of a Prussian in a foreign military service will be punished with imprisonment for from three months to three years. The attempt to commit this act will be punished in the same manner.

Under the head of indirect preventative measures against breach of neutrality come all those laws which enable the government generally to oppose the maturing of acts of violence within the territory of the state. The following clauses of the book of the penal code apply to this:

§ Whoever assembles or commands armed bodies of men without authority, or who furnishes with arms or the necessaries of war a body of men whom he knows to be assembled without the permission of the law, will be punished with imprisonment not exceeding two years.

Whoever takes part in such armed meeting, has rendered himself liable to imprisonment for a term not exceeding one year.

§ 340.

2. Whoever secretly, or in defiance of the authorities, stores up arms or ammunition, it not being his trade, will be punished with a fine of 50 Rths., or six weeks' imprisonment. In these cases a confiscation of the stores takes place.

The undersigned, &c., for the minister of foreign affairs,

THILE.

## RUSSIA.

ST. PETERSBURG, *August* 29, 1867.

MY LORD: With reference to your lordship's dispatch circular of February 14, instructing me to ascertain and report what laws, regulations, and other means the Russian government possess for preventing acts within its territories of which belligerents might complain as a violation of the duties of neutrality, I have the honor to inclose a copy of a note which I have received from M. de Westmann, stating that with the exception of article 259 of the Russian penal code, which forbids Russian subjects

to afford military succor to any power in a state of war with a government allied to that of Russia, there are no laws existing in this country of the nature alluded to in your lordship's dispatch. A translation of the article of the penal code referred to is inclosed.

I have, &c.,

ANDREW BUCHANAN.

The LORD STANLEY, *M. P., &c., &c., &c.*

[Translation.]

ST. PETERSBURG, *April* 16, (28,) 1867.

Mr. AMBASSADOR: In reply to your note of the 26th February, I have the honor to inform you that, with the exception of article 259 of the penal code of the empire, which forbids Russian subjects to afford military succor to any power in a state of war with a government allied to that of Russia, there are no laws for preventing acts of which belligerents might complain as violations of neutrality.

Yours, &c.,

WESTMANN.

[Translation.]

§§ 259.—*Penal code of Russia.*

If any Russian subject in time of peace shall by open force attack the inhabitants of a neighboring state or those of any other foreign country, and shall thereby subject his own country to the danger of a rupture with a friendly power, or even to an attack by such foreign subjects on the territory of Russia, for such a crime against international law, the offender, and all those who participate voluntarily in his enterprise with a knowledge of its objects and illegality, shall be sentenced to lose all their civil rights, and be condemned to hard labor in a fortress for a term of eight to ten years.

SPAIN.

[Received from her Majesty's legation at Madrid.]

*Note from the minister for foreign affairs to her Majesty's minister.*

[Translation.]

PALACE, *February* 22, 1867.

SIR: I have received the note which your excellency addressed to me on the 17th instant, requesting, in the name of your government, a copy of the laws and regulations in force in the Peninsula concerning neutrality.

In this matter Spain has always adapted herself to the principles of international right, and solely on the occasion of the late war in the United States did her Majesty's government issue a decree on the neutrality to be observed by Spanish subjects during that contest.

Of that document (the only one existing on the subject) a copy has been made, which I have the honor to transmit to your excellency in answer to your above-mentioned note.

I avail, &c.,

E. D. CALONGE.

H. B. M. MINISTER PLENIPOTENTIARY.

[Translation.]

*Royal decree concerning neutrality in the United States war, issued by H. C. M., on the* 17th *June,* 1861.

Taking into consideration the relations which subsist between Spain and the United States of America, and the propriety of causing no detriment to the reciprocal sentiments of good understanding on account of the grave events which have happened in that republic, I have resolved to maintain the strictest neutrality in the contest entered into between the Confederate States of the south and the Federal States of the Union; and in order to avoid the prejudice which might result to my subjects and to navigation and commerce, in consequence of the want of clear dispositions by which to regulate their conduct, in accordance with my council of ministers, I decree the following:

ARTICLE 1. The fitting-out, supplying, and equipment of any privateer in any of the ports of the monarchy is prohibited, whatever may be the flag which she may hoist.

ART. 2. The proprietors, masters, or captains of merchant vessels are also prohibited

from receiving letters of marque, and from contributing in any way to the armament and equipment of vessels of war or privateers.

ART. 3. Ships of war or privateers with prizes are prohibited from entering and remaining for more than 24 hours in the ports of the monarchy, except in the case of forced arrival.

When the latter shall occur, the authorities shall watch the ship, and shall oblige her to put to sea as soon as possible, without permitting her to supply herself with anything more than that which is necessary for the moment, but under no circumstances with arms or with munitions of war.

ART. 4. Articles taken from prizes shall not be sold at the ports of the monarchy.

ART. 5. The transport of all articles of commerce under the Spanish flag is guaranteed, except when intended for the blockaded ports.

The carrying of effects of war and of papers or communications for the belligerents is prohibited. Contraveners will be responsible for their own acts, and will have no right to the protection of my government.

ART. 6. All Spaniards are prohibited from enlisting in the belligerent armies, and from engaging themselves for service in vessels of war or privateers.

ART. 7. My subjects will abstain from any act which, by violating the laws of the kingdom, might be considered contrary to neutrality.

ART. 8. Contraveners of the above orders will have no right to the protection of my government; they will suffer the consequences of the measures taken by the belligerents, and will be punished according to the laws of Spain.

## SWEDEN.

[Received from her Majesty's legation at Stockholm.]

*Note from the minister for foreign affairs to her Majesty's minister.*

[Translation.]

STOCKHOLM, *February* 23, 1867.

SIR: In answer to your note of the 19th instant, I have the honor to inform you that the dispositions of the declaration of the Paris Congress of the 16th April, 1856, and of the annexed ordinance of 8th April, 1854, are the only laws now in force on matters of neutrality; and it is a principle with us, that where there is no law or positive fact to regulate the rights and duties of neutrals in time of war, the rules or principles in general use among nations must find application.

MANDERSTRÖM.

Mr. JERNINGHAM, *&c., &c., &c.*

[Translation.]

*Royal ordinance relating to what must be observed for the protection of the commerce and navigation of Sweden in time of war between foreign powers. Issued at Stockholm the 8th April,* 1854.

We, Oscar, by the grace of God King of Sweden and Norway, of the Goths and Vandals, hereby make known—

That, recognizing the necessity, in prospect of threatened collision between foreign maritime powers, for those of our faithful subjects engaged in commerce and navigation to observe strictly the obligations and precautions requisite to secure to the Swiss flag all the rights and privileges of neutrals, and also to avoid every act that might arouse the suspicion of belligerent powers and subject us to insult, we have thought proper to ordain, in reference to what has been already enacted on the subject, that the following rules be hereafter generally observed:

1. To enjoy the rights and privileges due to the Swedish flag as a neutral, every Swedish vessel must have on board the documents required by existing ordinances (see royal ordinances 1st March, 1841, and 15th August, 1851) to prove its nationality, and these documents must be on board during every voyage.

2. Captains are positively forbidden to have duplicate or false papers or bills of lading on board, and to hoist any foreign flag, on any occasion or pretext whatever.

3. If the crew of a Swedish vessel, while abroad, is diminished so as not to have enough left to work it, a complement must be taken from neutrals; but in no case shall the portion of the crew taken from belligerents exceed one-third. Every change of this kind, with causes for it, shall be noted on the crew-list, and be certified by the Swedish consul or vice-consul, or, those wanting, by the mayor or a notary public, according to the usages of the country.

4. Swedish vessels, as neutrals, may freely navigate in the ports and on the coasts of nations at war; but they must not attempt to enter a blockaded port, if notified of such a condition by the commanding officer of the blockade.

By a blockaded port is understood one so closed by many war vessels, stationed so near to each other that no vessel can pass without evident risk.

5. All sorts of goods, even belonging to the belligerents, may be freely carried on neutral Swedish vessels, with the exception of articles contraband of war. The following articles are contraband of war: cannons, mortars, arms of all kinds, bombs, grenades, bullets, flints, matches, powder, nitre, sulphur, shields, pikes, belts, cartridge-boxes, saddles and bridles, as well as everything used in war; excepting, of course, the quantity of such material as may be necessary to defend the vessel.

6. Every Swedish captain is prohibited from using his vessel to carry dispatches, troops, or munitions of war, for belligerents; and if forced to do so, he shall make a formal protest against such force.

7. Vessels of belligerent powers may import or export to or from Swedish ports all sorts of produce or goods not contraband of war.

8. Every Swedish subject is forbidden to arm or equip vessels to cruise against any belligerent power, their subjects or property, or to take part in any ships for that purpose. They are also forbidden to accept service on board privateers.

9. No privateer shall be allowed to enter a Swedish port, nor to hover on the coast. No prizes shall be brought into Swedish ports, unless from stress of weather. Our subjects are also forbidden to buy captured goods from privateers.

10. When a captain without escort is met at sea by a war vessel of a belligerent, he must show his papers, and not conceal any, or throw them overboard.

11. When merchant vessels are escorted, their captains must conform to the royal ordinance of the 10th June, 1852.

12. The captain who observes the above regulations enjoys a free navigation by the law of nations; and if he is molested, he must appeal to our ministers and consuls abroad for redress and damages. The captain who neglects them does so at his own risk, and forfeits our protection.

13. In case a Swedish ship is seized, the captain must make a certified report of the seizure to his consul or vice-consul, at the port where he is carried, or to the nearest consul or vice-consul.

We command and order all persons interested to conform to the above regulations. In faith whereof, we have signed the present with our hand, and have affixed our royal seal thereto.

Done at the palace of Stockholm, on the 8th of April, 1854.

OSCAR. [L. S.]

J. F. FAHRÆUS.

## UNITED STATES.

WASHINGTON, *February* 18, 1867.

MY LORD: I have the honor to acknowledge the receipt of your lordship's telegram of the 14th instant, inquiring what laws, regulations, or other means the United States government possess for the prevention of acts within their territories of which belligerents might complain as violating duties of neutrality.

The only law on the subject is the neutrality act of 1818. In the accompanying volume of Brightley's Digest I have marked the law. In the foot-notes your lordship will find the principal cases which have been decided in the courts of the United States bearing upon the construction of the statutes.*

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*NOTE.—The references here mentioned are the following:

(*a*) At end of sec. 1. "See 2 McLean, 2; 5 *Ibid.*, 250."

(*b*) Sec. 2, after words "If any person." "Foreign consuls are not exempted from the penal effects of the statute. A foreign minister who violates its provisions is liable to be summarily dismissed. 7 Opinions, 367." [N. B. The opinion here referred to is that of Caleb Cushing, which has been circulated among the commissioners.]

(*c*) In 2d sec., after the second "himself." "This act is declaratory of the pre-existing law of nations, and was intended to aid the Executive in the enforcement of that law. The 'Santissima Trinidada.' 1 Brock, 7 Opinions, 367."

(*d*) In sec. 2, after word "Enlisted." "It is not a crime under this act to leave this country with intent to enlist in foreign military service; nor to transport persons out of the country with their own consent who have an intention of so enlisting. To constitute a crime under this statute such persons must be hired or retained to go abroad with the intent of such enlisting. United States *v.* Karinski. 8 Law Reports, 254. See 4 Opinions, 336."

(*e*) In sec. 3, after the first "arm." "Either will constitute the offense; it is not necessary that the vessel should be armed, or in a condition to commit hostilities on leaving the United States. United States *v.* Quincy, 6 Pet., 445. See 3 Opin., 738, 741."

(*f*) In sec. 3, after the word "armed." "See United States *v.* Guinet, 2 Dall., 328."

(*g*) In sec. 3, after words "with intent" "Any degree of intent to commit hostilities against a nation with which this government is at peace is sufficient. 5 Opin., 92. But there must be a fixed intention that the vessel should be so employed; a mere wish so to employ her, if he could obtain funds on her arrival at a foreign port for the purpose of arming her, is not sufficient to render the defendant guilty. United States *v.* Quincy, 6 Pet., 445; Moodie *v.* The Alfred, 3 Dall., 307. But the fact that the arms and ammunition were cleared out as cargo, and the men shipped as for a common mercantile voyage, will not vary the case. The Gran Para, 7 Wheat., 466."

(*h*) In sec. 3, after word "people." "United States *v.* Quincy, 6 Pet., 467."

(*i*) In sec. 5, after first "vessel." "As to what amounts to the augmentation of the force of a foreign

When a complaint is addressed to the government, of a vessel being fitted out in breach of the law, the matter is referred for investigation to the district court attorney (an officer of the federal government) in the State in which the vessel is situated. It is his duty to see that the law is respected, and it is incumbent upon him to receive and collect evidence, and to libel the ship, if in his opinion the circumstances of suspicion are sufficient to warrant the institution of legal proceedings against her. He then reports the case to the government, who decide either in proceeding with the libel or on releasing the vessel. In the latter event it is in the power of the government to call upon the owners to give bonds in double the value of the vessel not to employ her for illegal purposes. This course is pursued where the evidence shows grounds for suspicion, but when the grounds are not strong enough to warrant a prosecution, with a view to forfeiture. Mr. Bemis, in a pamphlet on the Neutrality Laws, states that the bonds only affect the owners so long as the vessel remains in their possession, and he seems to be of the opinion that in the event of a *bonâ fide* sale, and of her subsequent employment as a cruiser or privateer against a friendly power, it would not be found possible to enforce the penalty against the original owners.

I inclose a newspaper extract with reference to the proceedings against a steamer called the R. R. Cuyler, which will show the manner in which the government acts. In this case the attorney-general directs that the libel be dismissed, and the vessel restored to the owners on their executing a bond as required by statute.

Though there are no specific regulations in force as to the mode in which the law is to be carried out, I apprehend it may be inferred that this government would consider any circumstances of suspicion attending the fitting out or equipment of a ship as sufficient to warrant her detention until the case can be investigated by the district attorney. It is not necessary that the allegations should be of such gravity as, if proved, would warrant her forfeiture. The owners may be compelled by law to give a bond previous to the sailing of an armed vessel, to guard against the possibility of her being employed against a friendly power, should war exist between two countries at peace with the United States. And a similar bond can be exacted, under certain contingencies mentioned in the statute, from the owners of any vessel built for warlike purposes and laden with war material.

It is to be presumed that these provisions are intended to apply to cases of war ships fitted out during time of war, where no direct evidence appears of illegal intent, but where the government thinks it advisable to call upon the owners to find security for keeping the peace. In order to effect this object it is evident that a wide discretion must be left to the government for the exercise of the power of detention.

I may remark that the government of the United States has considerable advantages in proceeding against vessels under the statue. They have on the spot where the preparations are being made the district attorney, a legal officer responsible to the government, to whom the duty of investigation is committed. The libel is in the nature of a proceeding in admiralty "*in rem*." It is decided by a judge conversant with international and maritime law, and without the intervention of a jury. The failure of the attempt to stop or punish the persons engaged in the expeditions against Cuba, and the suspension of proceedings against the men who took part in the Fenian raids against the British Provinces, in spite of the clearest evidence shows the difficulty of enforcing the law when it has to be put in operation "in personam," and when it is dependent on the verdict of a jury.

I have, &c.,

FREDERICK W. A. BRUCE.

The LORD STANLEY, *M. P., &c., &c., &c.*

*The steamer R. R. Cuyler—Conspiracy on board to assume control of the vessel at sea—The owners not culpable—The vessel to be bonded.*

NEW YORK, *February* 15.

The suspicion that the steamship R. R. Cuyler was intended for a piratical enterprise appears, from facts which have come to light since the seizure by the government, to have been well founded. The theory advanced, which there is no grounds for doubting, is, that there was a conspiracy on board to assume control of the vessel after she had gone to sea, and thus deprive the lawful owners of their property, who were not to receive their pay for her until she was delivered at Laguayra, Venezuela, to the Colombian government. Whatever may have been intended by the extraordinary personages on board, and however they may have intended to execute their plans, are matters no longer to be regarded with alarm, as the party has been dispersed, and the

armed vessel within our ports, see United States *v.* Grassin, 3 W. C. C., 65; the schooner Nancy, Bee., 73; Moodie *v.* The Ship Brothers, *Ibid.*, 76; Moodie *v.* The Betty Cathcart, *Ibid.*, 292; United States *v.* Guinet, 2 Dall., 328; 2 Opin., 86."

(*h*) In sec. 6, after first, "United States." "It is unimportant that such association originated beyond seas, if the expedition was carried on from hence. Ex parte Needham, Pet. C. C., 487."

(*i*) In sec. 6, after words "means for." "See 5 McLean, 250, 306; 2 Wheat. Cr. Cas., xlviii; 3 *Ibid.*, 174."

owners required to file bonds in twice the value of the vessel that she shall not be used by them to commit hostilities against any nation with which this government is at peace. This is sufficiently set forth in the following letter, received by Collector Smythe from the Secretary of the Treasury yesterday:

*Order to the collector.*

TREASURY DEPARTMENT, *February*, 1867.

SIR: I transmit herewith a copy of the letter of this date from the Attorney General of the United States at New York to the United States district attorney at New York, relative to the steamship R. R. Cuyler. You are hereby instructed to carry out the decision of the President, to release the R. R. Cuyler to the owners, upon being advised in writing by the United States district attorney that the required bond has been given and the proceedings in court dismissed.

Very respectfully,

H. McCULLOCH,
*Secretary of the Treasury.*

H. A. SMYTHE,
*Collector of Customs, New York.*

The following is a copy of the letter of the Attorney General:

*The Attorney General's letter.*

ATTORNEY GENERAL'S OFFICE, *February* 13, 1867.

In re steamship "R. R. Cuyler."

SIR: The President has had under his consideration the case of the steamship R. R. Cuyler, now detained at the port of New York under a seizure made by the customs officers, and a libel filed by you on or about the 5th of the current month, for alleged infraction of our neutrality laws.

The decision of the President had thereon is that such circumstances are shown as to require bond and security to be given by the owners, Messrs. Sturges, Taylor, Hubbell & Dollard, according to the provisions of the 10th and 11th sections of the act of April 20, 1818, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein named."—3d vol. Statutes at Large, p. 447.

You are accordingly instructed that, upon the entering and delivery to you of such bond to the United States, with sufficient sureties, prior to the clearing of the vessel, in double the amount or the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, as provided by the said 10th section, you will dismiss the proceedings so instituted.

Instructions will be sent to the collector of the port by the Secretary of the Treasury for the release of the vessel to her owners, when you advise them that the bond has been given and the proceedings in court have been dismissed.

I am, very respectfully, &c.,

HENRY STANBERY,
*Attorney General.*

SAMUEL G. COURTNEY, Esq.,
*U. S. District Attorney, New York City.*

*Case of the "R. R. Cuyler"—Alleged conspiracy of an ex-rebel captain and crew to turn the vessel into a Chilian privateer—Bonds required by the government.*

[From the New York Post.]

The steamship R. R. Cuyler, seized some time ago by the customs authorities of this port, and held for examination on a charge that she was destined for an illegal voyage, is still in the hands of the officers, but the former owners and claimants of the vessel are confident she will soon be released. The theory that there was a conspiracy on board to take her from the owners, who were not, it is declared, to get their pay for her, or all of it, till she should be delivered at Laguayra, Venezuela, to the Colombian government, is now, it appears, fully accepted, and it goes into the case as part of the matter which the Attorney General will consider when he decides whether the R. R. Cuyler ought to be held to await the action of the courts with a view to her condemnation if the charges should be sustained.

This theory is founded on information already partially given to the public. The evidence that the vessel was to become a Chilian privateer, or have some other illegal character, is considered complete; and her owners do not hesitate to admit that they

would probably have lost her, except for the interference of the United States authorities. This avowal raises many interesting points about the fitting out of the Cuyler, which will be fully investigated if an examination is entered upon, but which otherwise may never be brought out.

What is now recognized as the important fact of the case is that the conspiracy was fully matured, and was to be executed by ex-rebels, who comprised the passengers of the vessel. It appears that the getting together of these men and the equipment of them, with the purchase of some war material, costing more than $100,000, were the parts of the business about which the owners had no direct knowledge; and Read, the rebel officer who had charge of the numerous "passengers," only a part of whom it seems were on board the Cuyler at the wharf when she was ready to sail at the time of the seizure, was at the head of the piratical expedition. Exactly what was to be done with the Cuyler after she had left this port and was in the hands of the desperadoes who had been gathered to take possession of her, the representatives of the men whose interests were involved do not undertake to say.

These things in some respects explain, and in other respects complicate and mystify, the affair of the Cuyler. What influence they may have on the determination of the matter is a curious question. That the vessel, if she had been allowed to go, would have made a legal voyage, nobody asserts; nor is it likely that the government officers will urge that the American owners were guilty of complicity with the rebels, or with the persons, whoever they may have been, who furnished the means required at the beginning of the suspicious undertaking.

In a later edition the Post says:

"Collector Smythe has to-day received a letter from the Secretary of the Treasury directing that the steamship R. R. Cuyler be released when the owners of her give bonds to the government in double the amount of her value that she shall not be used by them to commit hostilities against any nation with which this government is at peace.

If bonds are not given, and no new instructions come from Washington, proceedings for the confiscation of the vessel will go on. No intimation has yet been given as to what the course of the claimants will be.

The following declarations and notifications were issued by the several countries hereunder specified, on the breaking out of the civil war in America:

### FRANCE.

*Declaration respecting neutrality of France during struggle in America.*

[Translation.]

PARIS, *June* 10, 1861.

The minister of foreign affairs has submitted to the Emperor the following declaration, which his Majesty has approved:

*Declaration.*

His Majesty the Emperor of the French, taking into consideration the state of peace which exists between France and the United States of America, has resolved to maintain a strict neutrality in the contest now pending between the government of the Union and the States that are attempting to form a distinct confederation.

In consequence, his Majesty, in view of article 14 of the Naval Ordinance of August, 1861; article 3 of the law of April, 1825; articles 84 and 85 of the Penal Code; 65 and others of the decree of the 24th of March, 1852; 313 and others of the Maritime Penal Code; and article 21 of the Code Napoleon, declares:

1. It shall not be lawful for any vessel of war or privateer of either of the belligerents to enter and remain with prizes in our ports or harbors more than 24 hours, unless in case of necessity.

2. No sale of prize goods shall take place in our ports or harbors.

3. It shall not be lawful for any Frenchman to accept a commission from either party to arm war vessels, or to accept letters of marque for privateering, or to take any part in equipping and arming a war vessel for either party.

4. Every Frenchman, in France or elsewhere, is forbidden to enlist or accept service in the army or navy, or in privateers of either belligerent.

5. Every Frenchman, residing in France or elsewhere, must refrain from any act against the laws of the empire or the law of nations that might be considered as an act hostile to one of the two parties, and contrary to the neutrality we have resolved to observe.

Violators of the prohibitions and recommendations contained in the present declaration shall be punished, if necessary, by the provisions of the law of the 10th of April, 1825, and by articles 84 and 85 of the Penal Code, and also be liable to prosecution by article 21 of the Code Napoleon, and articles 65 and onward of the decree of the 24th

March, 1852, in relation to the navy, and by 313 *et sequens* of the Penal Code for the sea forces.

His Majesty moreover declares that every Frenchman who does not obey the present instructions cannot claim the protection of his government against any acts or measures that belligerents may exercise or decree.

NAPOLEON.

E. THOUVENEL,
*Minister of Foreign Affairs.*

## PRUSSIA.

The minister of commerce issued the notification annexed to the mercantile classes in the Baltic ports:

"It is my duty to make known to you that during the continuance of the conflict that has broken out among the North American States the mercantile classes must abstain from all enterprises which are forbidden by the general principles of international law, and especially by the ordinance of the 12th of June, 1856, which has relation to the declaration of the 12th of April, 1856, upon the principles of maritime law. Moreover, I will not omit to make especially noticeable by you that the royal government will not permit to its shipping or its subjects, which may mix up in these conflicts by taking letters of marque, sharing in privateering enterprises, carrying merchandise contraband of war, or forwarding dispatches, to have the benefit of its protection against any losses which may befall them through such transactions.

"The equipment of privateers in the ports of this country is forbidden by the laws of the land, as is known to the mercantile community."

## BELGIUM.

[Translation.]

Belgium has given its adhesion to the principles laid down in the declaration of the Congress of Paris of April 16, 1856. This adhesion was published, together with the said declaration, (6th June, 1856,) in the Belgian Moniteur of June 8, 1856.

The commercial public is notified that instructions on this subject have been given to the judicial, maritime, and military authorities, warning them that privateers, under whatever flag or commission, or letters of marque, are not to be allowed to enter our ports, except in case of imminent perils of the sea. The aforesaid authorities are charged, consequently, to keep a strict watch upon all such privateers and their prizes, and to compel them to put to sea again as soon as practicable.

The same authorities have been charged not to recognize the validity of any commission or letter of marque whatsoever.

All persons subject to the laws of Belgium who shall fit out or take any part in any privateering expedition will therefore expose themselves to the danger, on the one hand, of being treated as pirates abroad, and, on the other, to prosecution before Belgian tribunals with all the rigor of the laws.

## RUSSIA.

*To the Commander-in-chief of the port of Cronstadt:*

His Imperial Highness the general admiral, foreseeing the possibility of ships belonging to the southern States of the American Union, which have seceded from the United States of North America, arriving at our ports during the present navigation, has directed me to inform your excellency, for your guidance, that, according to the opinion of the minister of foreign affairs, the flag of men-of-war belonging to the seceded States must not be saluted.

That there may be no obstacle in the way of commerce, merchant vessels of the seceded States are to be treated according to the rules acted on by us with regard to Italian merchant vessels sailing under the Italian flag; *i. e.*, according to the treaties that are at present in force, (commercial treaty concluded between America and us, December $\frac{6}{18}$, 1832.)

Should the crews of vessels belonging to the seceded States not wish to acknowledge the authority of the consuls appointed by the federal government of Washington, then, in case of dispute, they must abide by the decision of our local authorities, in the same manner as foreigners whose governments have no representatives in our empire.

General-Major GREIG,
*Director of the Chancellery of the Minister of Marine.*

*Circular addressed to the custom-houses on the White, Baltic, Black, and Azoff seas.*

By order of the minister of finance, the department of foreign trade prescribes, in case any merchant vessels arrive in our ports belonging to the southern States of the

American Union, the same not acknowledging the authority of the government of the United States of America, the said vessels are to be treated and received as hitherto, according to the treaty of 1832, should even their ships' papers not be in order, which may occur in consequence of the present political condition of the United States of America.

General-Lieutenant PASHKOFF,
*Director of the Department of Foreign Trade.*
SORNIN, *Chief of Section, &c.*

## NETHERLANDS.

[Translation.]

AT THE HAGUE.

In obedience to the King's orders, the ministers for foreign affairs, of justice, and of the marine, present to the knowledge of all it may concern, that, to guard against probable difficulties during the doubtful complications in the United States of North America, no privateers under any flag soever, or provided with any commission or letters of marque, or their prizes, shall be admitted into our havens or seaports, unless in case of marine disaster, and that requisite orders be issued that under any circumstances such privateers and their prizes be required to go again to sea as speedily as possible.

The ministers above named.

[Translation.]

THE HAGUE.

The minister for foreign affairs and the minister of justice, by the King's authority, warn, by these presents, all inhabitants of the kingdom that during the existing disturbances in the United States of America they in nowise take part in privateering, because the Netherlands government has acceded to the declaration upon maritime rights set forth by the Paris conference of 1856, whereby, among other matters, privateering is abolished, and no recognition of commissions got for letters of marque permitted; also that commissions and letters of marque in conflict with the aforesaid prohibition, which may issue to inhabitants of the Netherlands, cannot have a lawful effect in behalf of the King's subjects or of any abroad who are in subjection to the laws of the kingdom. Those who, under such circumstances, engage in or lend their aid in privateering to other people, will be considered as pirates, and prosecuted according to law in the Netherlands, and subjected to the punishment provided for the commission of such offenses.

The ministers above named.

[Translation.]

THE HAGUE, *June*, 1861.

The minister for foreign affairs, apprised by a communication from the minister of marine that the King had authorized the naval force in the West Indies to be seasonably strengthened by his Majesty's steam-frigate Zealand and the screw-propellers Dyambi and Vesuvius, for the purpose of giving protection to the trade and navigation of the Netherlands during the contest which seems to be in existence in the United States of North America, wherever it may be desired, therefore esteems it to be his duty to direct the attention of shipmasters, consignees, and freighters to the peril to which their insurance against loss will be exposed by any violation of the obligations imposed on neutral powers to respect actual blockades, and not to carry contraband of war or dispatches of belligerents.

In these cases they will be subject to all the resulting losses that may follow, without the benefit of any protection or intervention on the part of his Majesty's government. Of which take notice.

The minister above named.

## PORTUGAL.

[Translation.]

PALACE OF NECESSIDADES, *July* 29, 1861.

It being proper, in view of the circumstances at present existing in regard to the United States of America, to carry into effect the principles established in the declaration of Paris of April 16, 1856, made by the representatives of the powers that signed the treaty of peace of the 30th of March of that year, to which declaration my government acceded, and likewise, for the same reason, to adopt other measures which I deem opportune, I have been pleased, after hearing the council of state, to decree as follows:

ARTICLE 1. In all the ports and waters of this kingdom, as well on the continent and in the adjacent islands as in the ultramarine provinces, Portuguese subjects and foreigners are prohibited from fitting out vessels destined for privateering.

ARTICLE 2. In the same ports and waters referred to in the preceding article is, in like manner, prohibited the entrance of privateers and of the prizes made by privateers, or by armed vessels.

The cases of overruling necessity, *(força maior,)* in which, according to the law of nations, hospitality is indispensable, are excepted from this regulation, without permission, however, being allowed, in any manner, for the sale of any objects proceeding from prizes.

The ministers and secretaries of state in all the departments will thus understand, and cause it to be executed.

KING.

Countersigned:

MARQUEZ DE LOULE.
ALBERTO ANTONIO DE MORAES CARVALHO.
VISCONDE DE SA DA BANDEIRA.
CARLOS BENTO DA SILVA.
THIAGO AUGUSTO VELLOSO DE HORTA.
ANTONIO JOSÉ D'AVILA.

## HAWAIIAN ISLANDS.

*Proclamation of the King of the Hawaiian Islands declaring the neutrality of the Hawaiian Islands in the war between the United States and the so-called Confederate States.*

KAILUA, *August* 26, 1861.

Be it known to all whom it may concern that we, Kamehameha IV, King of the Hawaiian Islands, having been officially notified that hostilities are now unhappily pending between the government of the United States and certain States thereof styling themselves "the Confederate States of America," hereby proclaim our neutrality between the said contending parties.

That our neutrality is to be respected to the full extent of our jurisdiction, and that all captures and seizures made within the same are unlawful and in violation of our rights as a sovereign.

And be it further known, that we hereby strictly prohibit all our subjects, and all who reside or may be within our jurisdiction, from engaging, either directly or indirectly, in privateering against the shipping or commerce of either of the contending parties, or of rendering any aid to such enterprises whatever; and all persons so offending will be liable to the penalties imposed by the laws of nations, as well as by the laws of said States, and they will in nowise obtain any protection from us as against any penal consequences which they may incur.

Be it further known, that no adjudication of prizes will be entertained within our jurisdiction, nor will the sale of goods or other property belonging to prizes be allowed.

Be it further known, that the rights of asylum are not extended to the privateers or their prizes of either of the contending parties, excepting only in cases of distress or of compulsory delay by stress of weather or dangers of the sea, or in such cases as may be regulated by treaty stipulation.

Given at our marine residence of Kailua, this 26th day of August, A. D. 1861, and the seventh of our reign.

By the King,

KAMEHAMEHA.

By the King and Kuhina Nui,

KAAHUMANU.
R. C. WYLLIE.

## BREMEN.

*Ordinance of Senate against privateering. Published July* 4, 1861.

[Translation.]

The Senate finds it necessary, in regard to the events which have occurred in North America, to renew the regulations contained in its ordinance of April 29, 1854, and accordingly makes the following notification for general observance:

1. All subjects of the state of Bremen are forbidden, under severe penalties, both from meddling in any way with privateering and from taking part therein, either by fitting out privateers themselves, or contributing through others to the same.

2. The proper officers are ordered not on any account to allow the fitting out or provisioning of privateers, under whatever flag or carrying whatever letters of marque, in any port of the Bremen territory, nor to admit into a Bremen port any such privateers, or the prizes made by them, except in cases of proved stress of weather at sea.

Resolved at Bremen, in the assembly of the Senate, on the 2d, and published on the 4th of July, 1861.

### HAMBURG.

*Ordinance against privateering.*

[Translation.]

On the occasion of the events which have taken place in the United States of North America, the Senate reminds the public that, according to the notification of July 7, 1856, relative to the declaration of the Congress of Paris on the application of maritime law in time of war, privateering is entirely abolished, and therefore it is prohibited to engage in any way in privateering, or to take part in it either in fitting out privateers or by assisting others to do so. The proper orders have also been issued not to allow in Hamburg ports the fitting out or provisioning of privateers, under whatever flag or furnished with whatever letters of marque, and not to admit into Hamburg ports or roadsteads any such privateers, with or without prizes, except in cases of proved stress of weather at sea.

Given in the assembly of the Senate, Hamburg, July 19, 1861.

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## APPENDIX NO. V.

## BRITISH PROCLAMATIONS OF NEUTRALITY.

### I.—SPAIN AND SPANISH AMERICA.

*A proclamation prohibiting his Majesty's natural-born subjects from serving or enlisting, or entering themselves to serve, in the military forces or ships of war raised or set forth by the persons exercising or assuming to exercise the powers of government in certain provinces and parts of provinces in Spanish America, or in the military forces of his Catholic Majesty employed in Spanish America, or in his said Majesty's ships of war, 27th November, 1817.*

GEORGE, P. R.:

Whereas there unhappily subsists a state of warfare between his Catholic Majesty and divers provinces or parts of provinces in Spanish America; and whereas it has been represented to us that many of our subjects have, without our leave or license, enlisted or entered themselves to serve in the military forces or ships of war raised or set forth by the persons exercising or assuming to exercise the powers of government in such provinces or parts of provinces, and that divers others of our subjects are about, in like manner, to enter and enlist themselves; and whereas such practices are highly prejudicial to, and tend to the peace and welfare of our Crown and dominions; we do therefore hereby, by and with the advice of our privy council, strictly charge and command all and every of our natural-born subjects, of what degree or quality soever, not to serve in any such military forces or ships of war as aforesaid, and not to enlist or enter themselves to serve therein, and not to go beyond the seas, or embark in order to serve, or with intent to enter or enlist themselves to serve, in such military forces or ships of war; and it is at the same time our royal will and pleasure, and we do, by and with the advice aforesaid, hereby also strictly charge and command all and every of our said subjects not to serve or enlist, or enter themselves to serve, in any of the military forces or ships of war raised or set forth, or to be raised or set forth, by his Catholic Majesty, and not to go beyond the seas, or embark in order or to the intent to serve, or enter, or enlist themselves to serve in any such military forces or ships of war; it is, nevertheless, our royal will and pleasure that nothing herein contained shall be deemed or taken to prohibit any of our subjects who are engaged at the time of the date of this our proclamation in serving in the military forces of his Catholic Majesty, with our leave or license from continuing to serve therein, provided that such our said subjects do not serve with the military forces of his Catholic Majesty, when employed in Spanish America; and we do hereby, by and with the advice aforesaid, strictly require all our said subjects duly to conform to our commands herein contained, under pain of our highest displeasure and the utmost forfeitures, penalties, and punishments to which by law they will otherwise be liable.

Given at our court at Brighton, the 27th day of November, 1817, in the 58th year of his Majesty's reign.

God save the King.

## II.

*British proclamation for putting in execution the law made to prevent the enlisting or engagement of his Majesty's subjects in foreign service, and the fitting out or equipping in his Majesty's dominions vessels for warlike purposes without his Majesty's license, 6th June, 1823.*

GEORGE R.:

Whereas hostilities at this time exist between different states and countries in Europe and America, and it is his Majesty's determination to observe the strictest neutrality with respect to the states and countries engaged in such hostilities; and whereas his Majesty has been informed that attempts have been made to induce his Majesty's subjects to engage in such hostilities, by entering into the military and naval service of some of the states and countries without his Majesty's leave or license;

And whereas by an act made and passed in the 50th year of the reign of his late Majesty of blessed memory, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," It is, amongst other things, enacted "that if any natural-born subject of his Majesty," &c. (Second clause of the foreign enlistment act.)

And it is further enacted "That it shall and may be lawful for any justice of the peace * * * * according to law for the said offense,' (1st paragraph of the third clause of the foreign enlistment act.)

And it is further enacted "That in case any ship or vessel," &c., (5th clause of the foreign enlistment act.)

And it is further enacted "That if any master or person," &c., (6th clause of the foreign enlistment act.)

And it is further enacted "That if any person in any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is further enacted "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

His Majesty, therefore, being resolved to cause the provisions of the said statute to be effectually put in execution, and being desirous that none of his Majesty's subjects should unwarily subject themselves to the penalties thereby inflicted, hath thought fit, by and with the advice of his privy council, to issue this his royal proclamation, and doth hereby strictly command that no person or persons whatsoever do presume to commit or attempt any act, matter, or thing whatsoever contrary to the provisions of the said statute, and the tone, intent, and meaning thereof, and that the said provisions of the said statute be punctually observed and kept, upon pain of the several penalties by the said statute inflicted upon offenders against the same, and of his Majesty's high displeasure.

Given at our court at Carleton House this 6th day of June, 1823, and in the fourth year of our reign.

God save the King.

## III.—GREECE AND TURKEY.

(30 September, 1825.)

GEORGE R.:

Whereas his Majesty, being at peace with all the powers and states of Europe and America, has repeatedly declared his royal determination to maintain a strict and impartial neutrality in the different contests in which certain of these powers and states are engaged;

And whereas the commission of acts of hostility by individual subjects of his Majesty against any power or state, or against the persons and properties of the subjects of any power or state, which being at peace with his Majesty is at the same time engaged in a contest with respect to which his Majesty has declared his determination to be neutral, is calculated to bring into question the sincerity of his Majesty's declaration;

And whereas, if his Majesty's subjects cannot be effectually restrained from such unwarranted commission of acts of hostility, it may be justly apprehended that the governments aggrieved thereby might be unable, on their part, to restrain their subjects from committing acts of violence upon the persons and property of unoffending subjects of his Majesty;

And whereas the Ottoman Porte, a power at peace with his Majesty, is and has been for some years past engaged in a contest with the Greeks, in which contest his Majesty has observed a strict and impartial neutrality;

And whereas great numbers of his Majesty's loyal subjects reside and carry on a beneficial commerce, and possess establishments, and enjoy privileges within the dominions of the Ottoman Porte, protected by the faith of treaties between his Majesty and that power;

And whereas his Majesty has received recent and undoubted information that attempts are now making to induce certain of his Majesty's subjects to fit out ships of war and privateers in the ports of his Majesty's kingdom, and to embark therein, for the purpose of carrying on, under the Greek flag, hostile operations against the Ottoman government, of capturing and destroying Turkish ships and property, and of committing depredations on the coasts of the Turkish dominions;

And whereas such hostile operations would be directly contrary to the provisions of the act passed in the 59th year of the reign of his late Majesty (cap. 63) intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes without his Majesty's license," in which it is among other things enacted, "That if any natural-born subject," &c., (2d clause of the foreign enlistment act.)

And it is further enacted, "That if any person," &c., (7th clause of the foreign enlistment act.)

His Majesty, therefore, being desirous of preserving to his subjects the blessings of peace which they now happily enjoy, and being resolved to persevere in that system of neutrality which his Majesty has so repeatedly declared his determination to maintain, in order that none of his Majesty's subjects may unwarily render themselves liable to the penalties imposed by the statute herein mentioned, has thought fit, by and with the advice of his privy council, to issue this his royal proclamation.

And his Majesty does hereby strictly command that no person or persons whatsoever do presume to take part in any of the said contests, or to commit or attempt any act, matter, or thing whatsoever, contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of his Majesty's high displeasure.

And his Majesty, by and with the advice aforesaid, doth hereby enjoin all his Majesty's subjects strictly to observe, as well towards the Ottoman Porte and the Greeks as towards all other belligerents with whom his Majesty is at peace, the duties of neutrality, and to respect in all and each of them the exercise of those belligerent rights which his Majesty has always claimed to exercise when his Majesty has himself been unhappily engaged in war.

Given at our court at Windsor, the 30th day of September, 1825, and in the sixth year of our reign.

God save the King.

## IV.—Austria, France, and Sardinia.

(May 13, 1859.)

*By the Queen.—A proclamation.*

Victoria R.:

Whereas we are happily at peace with all sovereigns, powers, and states;

And whereas, notwithstanding our utmost exertions to preserve peace between all the sovereign powers and states now at war, hostilities have unhappily commenced between his Imperial Majesty the Emperor of Austria on the one part, and his Majesty the King of Sardinia and his Imperial Majesty the Emperor of the French on the other part;

And whereas a state of war now exists between his Imperial Majesty the Emperor of Austria on the one part, and his Majesty the King of Sardinia and his Imperial Majesty the Emperor of the French on the other part, and between their respective subjects and others inhabiting within their countries, territories, or dominions;

And whereas we are on terms of friendship and amicable intercourse with all and each of these sovereigns, and with their several subjects and others inhabiting within their countries, territories, or dominions;

And whereas great numbers of our loyal subjects reside and carry on commerce, and possess property and establishments, and enjoy various rights and privileges within the dominions of each of the aforesaid sovereigns, protected by the faith of treaties between us and each of the aforesaid sovereigns;

And whereas we, being desirous of preserving to our subjects the blessings of peace, which they now happily enjoy, are firmly purposed and determined to abstain altogether from taking any part, directly or indirectly, in the war now unhappily existing between the said sovereigns, their subjects and territories, and to remain at peace with and to maintain a peaceful and friendly intercourse with all and with each of them, and their respective subjects, and others inhabiting within any of their countries, territories, and dominions, and to maintain a strict and impartial neutrality in the said hostilities and war unhappily existing between them:

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation.

And we do hereby strictly charge and command all our loving subjects to govern themselves accordingly, and to observe a strict neutrality in and during the aforesaid

hostilities and war, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas in and by a certain statute made and passed in the 59th year of his Majesty King George III, (cap. 69,) entitled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes without his Majesty's license," it is among other things declared and enacted as follows: "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act):

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn and admonish all our loving subjects, and all persons whatsoever entitled to our protection, to observe towards each and all of the aforesaid sovereigns, their subjects and territories, and towards all belligerents whatsoever with whom we are at peace, the duties of neutrality; and to respect, in all and each of them, the exercise of those belligerent rights which we and our royal predecessors have always claimed to exercise.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign, in a war between other sovereigns, or in violation or contravention of the law of nations in that behalf, as more especially by breaking, or endeavoring to break, any blockade lawfully and actually established by or on behalf of any or either of the said sovereigns, by carrying officers, soldiers, dispatches, arms, ammunition, military stores or materials, or any article or articles considered and deemed to be contraband of war, according to the law or modern usages of nations, for the use or service of any or either of the said sovereigns, that all persons so offending, together with their ships and goods, will rightfully incur, and be justly liable to, hostile capture, and to the penalties denounced by the law of nations in that behalf.

And we do hereby give notice, that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril and of their own wrong; and that they will in no wise obtain any protection from us against such capture or such penalties as aforesaid, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at Buckingham Palace this 13th day of May, in the year of our Lord 1859, and in the 22d year of our reign.

God save the Queen.

## V.—UNITED STATES.

### (May 13, 1861.)

*By the Queen.—A proclamation.*

VICTORIA R.:

Whereas we are happily at peace with all sovereigns, powers, and states;

And whereas hostilities have unhappily commenced between the government of the United States of America and certain States styling themselves the Confederate States of America;

And whereas we, being at peace with the government of the United States, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties:

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation;

And we do hereby strictly charge and command all our loving subjects to observe a strict neutrality in and during the aforesaid hostilities, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril;

And whereas in and by a certain statute made and passed in the 59th year of his Majesty King George the III, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is among other things declared and enacted as follows:

"That if any natural-born subject of his Majesty," &c., (2d clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act):

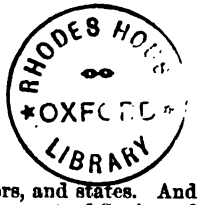
Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command, that no person or persons whatsoever do commit any act, matter, or thing whatsoever, contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign in the said contest, or in violation or contravention of the law of nations in that behalf; as for example, and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers or soldiers; or by serving as officers, sailors, or marines, on board any ship or vessel of war or transport of or in the service of either of the said contending parties; or by serving as officers, sailors, or marines, on board any privateer bearing letters of marque of or from either of the said contending parties; or by engaging to go or going to any place beyond the seas with intent to enlist or engage in any such service, or by procuring or attempting to procure within her Majesty's dominions, at home or abroad, others to do so; or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war, or privateer, or transport, by either of the said contending parties; or by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of either of the said contending parties; or by carrying officers, soldiers, dispatches, arms, military stores or materials, or any article or articles considered and deemed to be contraband of war, according to the law or modern usage of nations, for the use or service of either of the said contending parties, all persons so offending will incur and be liable to the several penalties and penal consequences by the said statute, or by the law of nations in that behalf imposed or denounced.

And we do hereby declare, that all our subjects and persons entitled to our protection, who may misconduct themselves in the premises, will do so at their peril and of their own wrong, and that they will in nowise obtain any protection from us against any liabilities or penal consequences, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at the White Lodge, Richmond Park, this 13th day of May, in the year of our Lord, 1861, and in the 24th year of our reign.

God save the Queen.




## VI.—Spain and Chili.

(6th February 1866.)

*By the Queen.—A proclamation.*

Victoria:

Whereas we are are happily at peace with all sovereigns, powers, and states. And whereas hostilities have unhappily commenced between the government of Spain and the government of the republic of Chili. And whereas we, being at peace with both the said governments, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties.

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation.

And we do hereby strictly charge and command all our loving subjects to observe a strict neutrality in and during the aforesaid hostilities, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the 59th year of his Majesty King George the III, intituled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is, amongst other things, declared and enacted as follows:

"That if any natural-born subject of his Majesty," &c., (2nd clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or

persons whatsoever do commit any act, matter, or thing whatsoever, contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty, as subjects of a neutral sovereign, in said contest, or in violation or contravention of the law of nations in that behalf, as for example and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers or soldiers; or by serving as officers, sailors, or marines, on board any ship or vessel of war or transport, of or in the service of either of the said contending parties, or by serving as officers, sailors, or marines, on board any privateers bearing letters of marque of or from either of the said contending parties; or by engaging to go or going to any place beyond the seas with intent to enlist or engage in any such service; or by procuring or attempting to procure, within her Majesty's dominions, at home or abroad, others to do so; or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war, or privateer, or transport, by either of the said contending parties; or by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of either of the said contending parties; or by carrying officers, soldiers, dispatches, arms, military stores, or materials, or any article or articles considered and deemed to be contraband of war, according to the law or modern usage of nations, for the use or service of either of the said contending parties, all persons so offending will incur and be liable to the several penalties and penal consequences by the said statute, or by the law of nations in that behalf imposed or denounced.

And we do hereby declare that all our subjects, and persons entitled to our protection, who may misconduct themselves in the premises, will do so at their peril, and of their own wrong, and that they will in nowise obtain any protection from us against any liabilities or penal consequences, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at Osborne House, Isle of Wight, this 3d day of February, in the year of our Lord 1866, and in the 29th year of our reign.

God save the Queen.

### VII.—Spain and Peru.

(13th March, 1866.)

The same as the preceding, (Spain and Chili,) *mutatis mutandis.*

### VII.—Austria, Prussia, Italy, Germany.

*By the Queen.—A proclamation.*

Victoria R.:

Whereas we are happily at peace with all sovereigns, powers, and states;

And whereas, notwithstanding our utmost exertions to preserve peace between all the sovereign powers and states now at war, hostilities have unhappily commenced between his Imperial Majesty the Emperor of Austria, his Majesty the King of Prussia, his Majesty the King of Italy, and the Germanic Confederation;

And whereas a state of war now exists between his Imperial Majesty the Emperor of Austria, his Majesty the King of Prussia, his Majesty the King of Italy, and the Germanic Confederation, and between their respective subjects and others inhabiting within their countries, territories, or dominions;

And whereas we are on terms of friendship and amicable intercourse with all and each of these sovereigns, and with the Germanic Confederation, and with their several subjects and others inhabiting within their countries, territories, or dominions;

And whereas great numbers of our loyal subjects reside and carry on commerce, and possess property and establishments, and enjoy various rights and privileges, within the dominions of each of the aforesaid sovereigns and states, protected by the faith of treaties between us and each of the aforesaid sovereigns and states;

And whereas we, being desirous of preserving to our subjects the blessings of peace, which they now happily enjoy, are firmly purposed and determined to abstain altogether from taking any part, directly or indirectly, in the war now unhappily existing between the said sovereigns and states, their subjects and territories, and to remain at peace with and to maintain a peaceful and friendly intercourse with all and with each of them, and their respective subjects and others inhabiting within any of their countries, territories, and dominions, and to maintain a strict and impartial neutrality in the said hostilities and war unhappily existing between them;

We therefore have thought fit, by and with the advice of our privy council, to issue this our royal proclamation:

And we do hereby strictly charge and command all our loving subjects to govern

themselves accordingly, and to observe a strict neutrality in and during the aforesaid hostilities and war, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas, in and by a certain statute made and passed in the 59th year of his Majesty King George the Third, entitled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in a foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license," it is amongst other things declared and enacted as follows: "That if any person within any part of the United Kingdom," &c., (7th clause of the foreign enlistment act.)

And it is in and by the said act further enacted, "That if any person in any part of the United Kingdom," &c., (8th clause of the foreign enlistment act.)

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed, and of our high displeasure.

And we do hereby further warn and admonish all our loving subjects, and all persons whatsoever entitled to our protection, to observe towards each and all of the aforesaid sovereigns and states, their subjects and territories, and towards all belligerents whatsoever with whom we are at peace, the duties of neutrality; and to respect in all and each of them the exercise of those belligerent rights which we and our royal predecessors have always claimed to exercise.

And we do hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral sovereign in a war between other sovereigns and states, or in violation or contravention of the law of nations in that behalf, as more especially by breaking or endeavoring to break any blockade lawfully and actually established by or on behalf of any or either of the said sovereigns and states, by carrying officers, soldiers, dispatches, arms, ammunition, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usages of nations, for the use or service of any or either of the said sovereigns and states, that all persons so offending, together with their ships and goods, will rightfully incur and be justly liable to hostile capture, and to the penalties denounced by the law of nations in that behalf.

And we do hereby give notice, that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril and of their own wrong; and that they will in nowise obtain any protection from us against such capture, or such penalties as aforesaid, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at Windsor, this 27th day of June, in the year of our Lord 1866, and in the 30th year of our reign.

God save the Queen.

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## APPENDIX NO. VI.

### REGULATIONS AND INSTRUCTIONS PUBLISHED BY HER MAJESTY'S GOVERNMENT DURING THE CIVIL WAR IN THE UNITED STATES, 1861-65:

*Letter from the Foreign Office to the Admiralty, Colonial, War, and India Offices, interdicting armed cruisers and privateers, whether of the United States of North America or the so-styled Confederate States, from carrying prizes into British ports. June* 1, 1861.

FOREIGN OFFICE, *June* 1, 1861.

MY LORDS: Her Majesty's government are, as you are aware, desirous of observing the strictest neutrality in the contest which appears to be imminent between the United States and the so-styled Confederate States of North America; and with the view more effectually to carry out this principle they propose to interdict the armed ships, and also the privateers of both parties, from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, or of any of her Majesty's colonies or possessions abroad.

I have accordingly to acquaint your lordships that the Queen has been pleased to direct that orders in conformity with the principles above stated should forthwith be addressed to all proper authorities in the United Kingdom, and to her Majesty's naval or other authorities in all quarters beyond the United Kingdom, for their guidance in the circumstances.

I have, &c.,

J. RUSSELL.

The LORDS COMMISSIONERS OF THE ADMIRALTY.

NOTE.—A similar letter was addressed, on the same day, to each of the secretaries of state for India, war, and the colonies.

[Extract from the London Gazette of the 15th December, 1863.]

*Letter from Earl Russell to the lords commissioners of the admiralty, and dispatched from the duke of Newcastle to the governor of the Bahamas.*

FOREIGN OFFICE, *January* 31, 1862.

MY LORDS: Her Majesty being fully determined to observe the duties of neutrality during the existing hostilities between the United States and the states calling themselves "the Confederate States of America," and being, moreover, resolved to prevent, as far as possible, the use of her Majesty's harbors, ports, and coasts, and the waters within her Majesty's territorial jurisdiction, in aid of the warlike purposes of either belligerent, has commanded me to communicate to your lordships, for your guidance, the following rules, which are to be treated and enforced as her Majesty's orders and directions:

Her Majesty is pleased further to command that these rules shall be put in force in the United Kingdom and in the channel islands on and after Thursday, the 6th day of February next, and in her Majesty's territories and possessions beyond the seas six days after the day when the governor or other chief authority of each of such territories or possessions respectively shall have notified and published the same, stating in such notification that the said rules are to be obeyed by all persons within the same territories and possessions.

I. During the continuance of the present hostilities between the government of the United States of North America and the States calling themselves "the Confederate States of America," or until her Majesty shall otherwise order, no ship of war or privateer belonging to either of the belligerents shall be permitted to enter or remain in the port of Nassau, or in any other port, roadstead, or waters of the Bahama islands, except by special leave of the lieutenant-governor of the Bahama islands, or in case of stress of weather. If any such vessel should enter any such port, roadstead, or waters by special leave, or under stress of weather, the authorities of the place shall require her to put to sea as soon as possible, without permitting her to take in any supplies beyond what may be necessary for her immediate use.

If, at the time when this order is first notified in the Bahama islands, there shall be any such vessel already within any port, roadstead, or waters of those islands, the lieutenant governor shall give notice to such vessel to depart, and shall require her to put to sea within such time as he shall, under the circumstances, consider proper and reasonable. If there shall then be ships of war or privateers belonging to both the said belligerents within the territorial jurisdiction of her Majesty, in or near the same port, roadstead, or waters, the lieutenant governor shall fix the order of time in which such vessels shall depart. No such vessel of either belligerent shall be permitted to put to sea until after the expiration of at least twenty-four hours from the time when the last preceding vessel of the other belligerent (whether the same shall be a ship of war, or privateer, or merchant ship) which shall have left the same port, roadstead, or waters, or waters adjacent thereto, shall have passed beyond the territorial jurisdiction of her Majesty.

II. During the continuance of the present hostilities between the government of the United States of North America and the States calling themselves "the Confederate States of America," all ships of war and privateers of either belligerent are prohibited from making use of any port or roadstead in the United Kingdom of Great Britain and Ireland, or in the channel islands, or in any of her Majesty's colonies or foreign possessions or dependencies, or of any waters subject to the territorial jurisdiction of the British Crown, as a station or place of resort for any warlike purpose or for the purpose of obtaining any facilities of warlike equipment; and no ship of war or privateer of either belligerent shall hereafter be permitted to sail out of or leave any port, roadstead, or waters subject to British jurisdiction, from which any vessel of the other belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the territorial jurisdiction of her Majesty.

III. If any ship of war or privateer of either belligerent shall, after the time when this order shall be first notified and put in force in the United Kingdom and in the channel islands, and in the several colonies and foreign possessions and dependencies of her Majesty, respectively enter any port, roadstead, or waters belonging to her Majesty either in the United Kingdom or in the channel islands, or in any of her Majesty's colonies or foreign possessions or dependencies, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, roadstead, or waters, except in case of stress of weather, or of her requiring provisions or things necessary for the subsistence of her crew, or repairs; in either of which cases

the authorities of the port, or of the nearest port, as the case may be, shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel, which may have been allowed to remain within British waters for the purpose of repair, shall continue in any such port, roadstead, or waters, for a longer period than twenty-four hours after her necessary repairs shall have been completed: *Provided, nevertheless*, That in all cases in which there shall be any vessels (whether ships of war, privateers, or merchant ships) of both the said belligerent parties in the same port, roadstead, or waters within the territorial jurisdiction of her Majesty, there shall be an interval of not less than twenty-four hours between the departure therefrom of any such vessel (whether a ship of war, a privateer, or a merchant ship) of the one belligerent, and the subsequent departure therefrom of any ship of war or privateer of the other belligerent; and the times, hereby limited, for the departure of such ships of war and privateers respectively, shall always, in case of necessity, be extended so far as may be requisite for giving effect to this proviso, but not further or otherwise.

IV. No ship of war or privateer of either belligerent shall hereafter be permitted, while in any port, roadstead, or waters subject to the territorial jurisdiction of her Majesty, to take in any supplies, except provisions and such other things as may be requisite for the subsistence of her crew; and except so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination; and no coal shall be again supplied to any such ship of war or privateer, in the same or any other port, roadstead, or waters subject to the territorial jurisdiction of her Majesty, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within British waters as aforesaid.

I have, &c.,

RUSSELL.

NOTE.—A similar letter has been addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

DOWNING STREET, *October* 6, 1863.

SIR: Doubts having been expressed as to whether, under the regulations of the 31st January, 1862, which were embodied in a proclamation issued by you on the 11th March following, it is required that the commander of a belligerent ship of war or privateer should obtain the permission of the local authorities before entering the ports, roadsteads, or waters of the Bahamas out-islands, when the governor is not there present, I am to acquaint you that Earl Russell has taken her Majesty's pleasure thereupon, and you are to understand that at the ports of the out-islands, as at Nassau, the special leave of the governor himself is required (unless in stress of weather) by any belligerent vessel desiring to enter, with this exception only, that in cases of grave emergency and real necessity and distress, such as a sailing vessel being dismasted, or accident happening to the machinery of a steam-vessel, the vessel may enter the ports, roadsteads or waters, on obtaining leave from a resident officer, to whom the governor shall have delegated his authority in that behalf.

With a view to give effect to her Majesty's intentions, you will be pleased to convey to the officers in the out-islands to whom it may be best confided, the authority in question, taking care to communicate to them copies of the regulations of the 31st January, 1862, and calling their especial attention to the limits of the authority delegated, and to that clause of the regulations of 31st January, 1862, in which it is directed that vessels entering under stress of weather, or by special leave, shall be required to put to sea as soon as possible.

I have, &c.,

NEWCASTLE.

Governor BAYLEY, C. B., *&c., &c., &c.*

*Return to an address of the honorable the House of Commons, dated 3d June, 1864, for "copy of any additional instructions to colonial governors on the subject of belligerent cruisers."*

FREDERICK ROGERS.

COLONIAL OFFICE, *June* 6, 1864.

*Circular instructions to governors of colonies respecting the treatment of prizes captured by federal or confederate cruisers if brought into British waters.*

DOWNING STREET, *June* 2, 1864.

SIR: I think it well to communicate to you the decisions at which her Majesty's government have arrived on certain questions which have arisen respecting the treat-

ment of prizes captured by federal or confederate cruisers if brought into British waters.

1. If any prize captured by a ship of war of either of the belligerent powers shall be brought by the captors within her Majesty's jurisdiction, notice shall be given by the governor to the captors immediately to depart and remove such prize.

2. A vessel which shall have been actually and *bona fide* converted into, and used as, a public vessel of war, shall not be deemed to be a prize within the meaning of these rules.

3. If any prize shall be brought within her Majesty's jurisdiction through mere stress of weather, or other extreme and unavoidable necessity, the governor may allow for her removal such time as he may consider to be necessary.

4. If any prize shall not be removed at the time prescribed to the captors by the governor, the governor may detain such prize until her Majesty's pleasure shall be made known.

5. If any prize shall have been captured by any violation of the territory or territorial waters of her Majesty, the governor may detain such prize until her Majesty's pleasure shall be made known.

Her Majesty's government have not thought it necessary to make any addition to the instructions already given with respect to cargoes, viz, that her Majesty's orders apply as much to prize cargoes of every kind which may be brought by any armed ships or privateers of either belligerent into British waters as to the captured vessels themselves. They do not, however, apply to any articles which may have formed part of any such cargoes if brought within British jurisdiction, not by armed ships or privateers of either belligerent, but by other persons who may have acquired or may claim property in them by reason of any dealings with the captors.

These rules are for the guidance of the executive authority, and are not intended to interfere in any way with the process of any court of justice.

I have, &c.,

EDWARD CARDWELL.

["London Gazette," September 9, 1864.]

FOREIGN OFFICE, *September* 8, 1864.

It is hereby notified that her Majesty has been pleased to order that for the future no ship of war belonging to either of the belligerent powers of North America shall be allowed to enter, or to remain, or be, in any of her Majesty's ports for the purpose of being dismantled or sold; and her Majesty has been pleased to give directions to the commissioners of her Majesty's customs, and to the governors of her Majesty's colonies and foreign possessions, to see that this order is properly carried into effect.

[Extract from the "London Gazette" of May 19, 1865.]

*Letter from Earl Russell to the lords commissioners of the admiralty.*

FOREIGN OFFICE, *May* 11, 1865.

MY LORDS: I have the honor to acquaint you that, in the existing state of the civil war in America, and the uncertainty which may be felt as to its continuance, it appears to her Majesty's government that the time has arrived for ceasing to enforce so much of the orders which, in pursuance of my letter of the 31st of January, 1862, were issued by the several departments of her Majesty's government, as empowered the authorities of any port belonging to her Majesty, either in the United Kingdom or the channel islands, or in any of her Majesty's colonies or foreign possessions or dependencies, to require any ship of war or privateer of either belligerent which might enter any port, roadstead, or waters belonging to her Majesty, in order to obtain provisions or things necessary for the subsistence of her crew, or to effect repairs, to put to sea as soon as possible after the expiration of a period of 24 hours, without permitting her to take in supplies beyond what might be necessary for her immediate use; and not to suffer any such vessel as might have been allowed to remain within British waters for the purpose of repair to continue in any port, roadstead, or waters belonging to her Majesty for a longer period than 24 hours after her necessary repairs should have been completed: and also so much of the same orders as limited the quantity of coal and the period within which it might be obtained, to be embarked on board any such ship of war or privateer of either belligerent.

I have addressed a similar letter to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

RUSSELL.

NOTE.—A similar letter has been addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

[Extract from the "London Gazette" of June 5, 1865.]

*Letter from Earl Russell to the lords commissioners of the admiralty.*

FOREIGN OFFICE, *June* 2, 1865.

MY LORDS: I have the honor to state to your lordships that since the date of my letter of the 11th ultimo intelligence has reached this country that the late President of the so-called Confederate States has been captured by the military forces of the United States, and has been transported as a prisoner to Fort Monroe, and that the armies hitherto kept in the field by the Confederate States have for the most part surrendered or dispersed.

In this posture of affairs her Majesty's government are of opinion that neutral nations cannot but consider the civil war in North America as at an end.

In conformity with this opinion her Majesty's government recognize that peace has been restored within the whole territory of which the United States of North America before the commencement of the civil war were in undisturbed possession.

As a necessary consequence of such recognition on the part of her Majesty's government, her Majesty's several authorities in all ports, harbors, and waters belonging to her Majesty, whether in the United Kingdom or beyond the seas, must henceforth refuse permission to any vessel of war carrying a confederate flag to enter any such ports, harbors, and waters; and must require any confederate vessels of war which, at the time when these orders reach her Majesty's authorities in such ports, harbors, and waters may have already entered therein on the faith of proclamations heretofore issued by her Majesty, and which, having complied with the provisions of such proclamations, may be actually within such ports, harbors, and waters, forthwith to depart from them.

But her Majesty's government consider that a due regard for national good faith and honor requires that her Majesty's authorities should be instructed, as regards any such confederate vessels so departing, that they should have the benefit of the prohibition heretofore enforced against pursuit of them within 24 hours by a cruizer of the United States lying at the time within any such ports, harbors, and waters, and that such prohibition should be then and for the last time maintained in their favor.

If, however, the commander of any confederate vessel of war which may be found in any port, harbor, or waters of her Majesty's dominions at the time these new orders are received by her Majesty's authorities, or may enter such port, harbor, or waters within a month after these new orders are received, should wish to divest his vessel of her warlike character, and, after disarming her, to remain without a confederate flag within British waters, her Majesty's authorities may allow the commander of such vessel to do so at his own risk in all respects, in which case he should be distinctly apprised that he is to expect no further protection from her Majesty's government, except such as he may be entitled to in the ordinary course of the administration of the law in time of peace.

The rule as to 24 hours would of course not be applicable to the case of such vessel.

I have addressed a similar letter to the secretaries of state for the home, colonial, India, and war offices, and also to the lords commissioners of her Majesty's treasury, requesting them, as I do your lordships, to issue instructions in conformity with the decision of her Majesty's government to the several British authorities at home or abroad who may be called upon to act in the matter.

I am, &c.,

RUSSELL.

NOTE.—A similar letter was addressed to the secretaries of state for the home, colonial, war, and India departments, and to the lords commissioners of her Majesty's treasury.

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## APPENDIX NO. VII.

*Return to an address of the honorable the House of Commons, dated July* 8, 1863, *for "copy of a memorial from certain shipowners of Liverpool to the secretary of state for foreign affairs, suggesting an alteration in the foreign enlistment act."*

### No. 1.

*To the right honorable the Earl Russell, her Majesty's principal secretary of state for the foreign department.*

The memorial of the undersigned shipowners of Liverpool showeth: That your memorialists, who are deeply interested in British shipping, view with dismay the probable future consequences of a state of affairs which permits a foreign belligerent to

construct in, and send to sea from, British ports vessels of war, in contravention of the provisions of the existing law.

That the immediate effect of placing at the disposal of that foreign belligerent a very small nu ber of steam-cruisers has been to paralyze the mercantile marine of a powerful maritime and naval nation, inflicting within a few months losses, direct and indirect, on its shipowning and mercantile interests, which years of peace may prove inadequate to retrieve.

That your memorialists cannot shut their eyes to the probability that in any future war between England and a foreign power, however insignificant in naval strength, the example now set by subjects of her Majesty while England is neutral may be followed by citizens of other countries neutral when England is belligerent; and that the attitude of helplessness in which her Majesty's government have declared their inability to detect and punish breaches of the law notoriously committed by certain of her Majesty's subjects, may hereafter be successfully imitated by the governments of those other countries in answer to English remonstrances.

That the experience of late events has proved to the conviction of your memorialists that the possession by a belligerent of swift steam-cruisers, under no necessity, actual or conventional, to visit the possibly blockaded home ports of that belligerent, but able to obtain all requisite supplies from neutrals, will become a weapon of offense against which no preponderance of naval strength can effectually guard, and the severity of which will be felt in the ratio of the shipping and mercantile wealth of the nation against whose mercantile marine the efforts of those steam-cruisers may be directed.

That the effect of future war with any power thus enabled to purchase, prepare, and refit vessels of war in neutral ports, will inevitably be to transfer to neutral flags that portion of the sea-carrying trade of the world which is now enjoyed by your memorialists and by other British shipowners.

That over and above the chances of pecuniary loss to themselves, your memorialists share in the regret with which a law regarding community must naturally look on successful attempts to evade the provisions of an act of Parliament passed for a single and simple purpose, but which has been found not to give the executive all the powers needed for its effective execution.

That your memorialists would accordingly respectfully urge upon your lordship the expediency of proposing to Parliament to sanction the introduction of such amendments into the foreign enlistment act as may have the effect of giving greater power to the executive to prevent the construction in British ports of ships destined for the use of belligerents.

And your memorialists would further suggest to your lordship the importance of endeavoring to secure the assent of the governments of the United States of America and of other foreign countries to the adoption of similar regulations in those countries also.

All which your memorialists respectfully submit.

| | |
|---|---|
| Lamport & Holt. | James Brown & Co. |
| James Baines & Co. | James Poole & Co. |
| Richard Nicholson & Son. | W. Jacob & Co. |
| W. B. Boadle. | Henry Moore & Co. |
| J. Prowse & Co. | Imrie & Tomlinson. |
| Currie, Newton & Co. | Thomas Chilton. |
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LIVERPOOL, *June* 9, 1863.

No. 2.

*Mr. Hammond to Messrs. Lamport & Holt, and others.*

FOREIGN OFFICE, *July* 6, 1863.

GENTLEMEN: I am directed by Earl Russell to acknowledge the receipt of the memorial dated the 9th of June, signed by you and others of the merchants at Liverpool, in which you urge upon his lordship the expediency of proposing to Parliament such amendments to the foreign enlistment act as shall enable the government to prevent the construction in British ports of ships destined for the use of belligerents.

I am to state to you, in reply, that in Lord Russell's opinion the foreign enlistment act is effectual for all reasonable purposes, and to the full extent to which international

law or comity can require, provided proof can be obtained of any act done with the intent to violate it.

Even if the provisions of the act were extended, it would still be necessary that such proof should be obtained, because no law could or should be passed to punish upon suspicion instead of upon proof.

I am, &c.,

E. HAMMOND.

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### *Mr. Moran to Mr. Seward.*

No. 43.] LEGATION OF THE UNITED STATES,
*London, June* 5, 1868.

SIR: On the 3d instant I received a note from Colonel John Warren, now under sentence of penal servitude, dated at Millbank prison on the 22d of May, a copy of which I have the honor to inclose, together with a copy of my reply. While acknowledging his note, I thought I could not well let his reflections on Mr. Adams pass unnoticed, and I trust my remarks on that part of his letter will not be considered uncalled for. I have no information as to the intentions of her Majesty's government towards this prisoner, but am led to think that there is a disinclination to grant him a discharge just now.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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#### *Mr. Warren to Mr. Moran.*

[N. B.—The convict's writing to be confined to the ruled lines of these two pages. In writing to the convict direct to No. 4107. John (R. C.—5) Warren.]

LONDON, *May* 22, 1868.

SIR: With the privilege of writing this letter I was informed that Mr. Adams had at last performed his *hegira* and departed this city. It is to be hoped that a new era will date therefrom, and that the *inertia* of his successor will not deceive the authorities at this side as to the long-recognized rights of the American citizen—native and adopted. It was a great mistake for one party to imagine that Mr. Adams's opinions were the opinions of the American government and people; and for Mr. A. to imagine that he was the United States government and people on horseback, reference to which is made by the undersigned with the best possible intention. *To all whom it may concern:*

In Mr. Adams's letter to me of the 11th March, he stated that "if any further intelligence be received prior to the date of his departure, he would let me know of it." I have concluded, (assuming he meant what he wrote,) in consequence of not hearing from him, nothing has transpired to affect my case; but I know it unavoidably must be done, and I therefore wish to instruct you finally as to my position, concluding that if action has not been (partly or wholly) taken by this time, it soon will. I respectfully request of you, if the question of my discharge be submitted to your office, to first apprise me of its nature, if any stipulations are required before making any final arrangements, as I know you will admit I am an interested party. As a transported convict here, I hear nothing of what is transpiring outside. The rules of the prison are fully applied to me. The officers can't help it. The thrice-convicted robber is as good a man as I am here. My health does not trouble me yet very much, but I may thank an active, hardy life for that. Not out of 5,000 hardy men could you get six men who can stand kicking, cuffing, starving, hanging, or shooting any better than Warren can. My patience is large, so you see I am a good subject for the two doctors. If, on receipt of this, you expect Mr. A.'s successor immediately, you might defer writing; but if not, I hope you will write on receipt. Also should the question of the principle involved in my case be taken up in the right style by my government, I ask of you to make application to see me, to inquire as to my treatment.

In conclusion, let me impress upon you that by the time you receive this I shall be 12 months in prison, on an indictment found on the evidence of Corydon for my actions in the United States of America.

I have the honor, &c.,

JOHN WARREN.

BENJAMIN MORAN, Esq.
*Acting U. S. Minister, London.*

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*Mr. Moran to Mr. Warren.*

LEGATION OF THE UNITED STATES,
*London, June* 4, 1868.

SIR: Your letter of the 22d of May, addressed to me, did not come to hand until yesterday morning. In reply to your references to Mr. Adams's note to you of the 11th of March, I can only state that no information whatever bearing upon any proceedings in your case, has reached this legation from the government since that communication was transmitted to you. Had there been any, he would not have been unmindful of his word, but would have endeavored to let you know. And I may here be permitted to observe that it is due from me to Mr. Adams to express my sorrow that your letter is blemished with the reflections it contains upon him, and I venture to trust that in your calmer moments you will see this matter in the same light. I can readily understand your anxiety, but you will allow me to say that you fall into an error when you permit yourself to suppose that you have cause of complaint for neglect against either him or the government of your country.

As yet I have not been informed who Mr. Adams's successor will be. But I may say in connection with your request touching any terms of discharge that may be offered in your case, that the responsibility of accepting or rejecting them must rest entirely with you. I can assure you, in conclusion, that I shall be very glad to communicate to you promptly any intelligence I may be favored with for you from the government.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Mr. JOHN WARREN,
No. 4107 (R. C.—5.) *Milbank Prison.*

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*Mr. Moran to Mr. Seward.*

No. 50.] LEGATION OF THE UNITED STATES,
*London, June* 12, 1868.

SIR: Dispatches numbered 5, 6, and 7, and your unofficial note of the 29th of May, were received yesterday at this legation from the Department of State.

I have already arranged to see Lord Stanley on the subject of your dispatch No. 5, at 1 o'clock on Monday. Should his reply be that Mr. Thornton will be authorized to open negotiations with you soon, at Washington, on the question of expatriation, I will telegraph at once. But in any event you shall have a dispatch reporting the interview by next Wednesday's steamer.

I had not lost sight of the commission appointed to examine the British naturalization laws, of which Lord Clarendon is chairman. It consists, besides himself, of Sir Roundell Palmer, the attorney-general, Sir J. B. Karslake, the Right Hon. Edward Cardwell, Mr. W. E. Forster, Sir Robert Phillimore, Sir T. Twiss, Baron Branwell, Mr. Vernon Harcourt, and Professor Montague Bernard. It held its first meeting on Wednesday, the 10th instant, and will meet again to-day. I have reason to know that there is a feeling among the majority of the members to recommend a change in the present law of a liberal nature, and also a desire to bring the work of the commission to as early a close as the

nature of the subjects to be considered will allow; and I understand that there is a strong inclination to recommend the repeal of the laws granting juries *de mediatate linguæ*.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 53.] LEGATION OF THE UNITED STATES,
*London, June* 16, 1868.

SIR: Yesterday I had an interview with Lord Stanley, to ascertain whether there was a prospect that her Majesty's government would be disposed soon to empower Mr. Thornton to negotiate a treaty with you on the right of expatriation, based upon the principle in the convention lately concluded between the United States and the North German confederation. His lordship, referring to the commission recently appointed by the Crown to consider the present condition of the naturalization laws, said that to negotiate on the subject before that commission had reported seemed to him to be putting the cart before the horse. Heretofore the two countries had differed widely as to the right of expatriation; but her Majesty's government had conceded the principle of defeasibility contended for by that of the United States. The two nations are therefore agreed on the question. But her Majesty's government prefer to wait for and consider the report of the commissioners before going into any written engagement with another nation on the subject. In the course of the interview his lordship said that the lawyers found fault with the German treaty, objecting to it as defective and calculated to cause much trouble, especially on questions of descent and of property, as well as to repatriation; and he seemed to think it could not be adopted as a basis for negotiation by her Majesty's government. His own disposition is to come to an early arrangement, and he trusts there will be no unnecessary delay on the part of the commissioners in concluding their report, until the reception of which it will not be convenient for her Majesty's government to act. As the conversation was without assurance that Mr. Thornton would soon receive authority to negotiate, I have exercised the discretion left me in your dispatch No. 5, and have not used the telegraph to inform you of the result, concluding that you would infer an unfavorable reply from my silence.

I learn from a source in which I have confidence that even if a treaty were made at the moment, there would not be time to carry it through Parliament this session. It is now stated that the dissolution will take place at the close of next month, and that the new Parliament will assemble in November. But nothing is likely to be done in the matter before then. It is, however, not improbable that this government may be prepared to submit some plan for the consideration of that of the United States before the end of the year.

I transmit an official copy of the document creating the commission to inquire into and consider the various questions connected with the laws of naturalization, and you will see that those in which the United States take an interest are included in the third paragraph. I have good

reason for stating that the commissioners anticipate no difficulty in arriving at a satisfactory conclusion on the points in which the United States are most concerned.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Commission.*

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith.

To our right trusty and well-beloved cousin and councillor, George William Frederick, Earl of Clarendon, knight of our most noble Order of the Garter, and Knight Grand Cross of our most honorable Order of the Bath; our right trusty and well-beloved councillor Edward Cardwell; our right trusty and well-beloved councillor Sir Robert Joseph Phillimore, knight, doctor of civil law, judge of the high court of admiralty of England; our trusty and well-beloved Sir George William Wilshere Bramwell, knight, one of the barons of our court of exchequer; our trusty and well-beloved Sir John Burgess Karslake, knight, our attorney general; our trusty and well-beloved Sir Travers Twiss, knight, doctor of civil law, our advocate general; our trusty and well-beloved Sir Roundell Palmer, knight; our trusty and well-beloved William Edward Forster, esq.; our trusty and well-beloved William George Granville Venables Vernon Harcourt, esq., one of our council learned in the law; and our trusty and well-beloved Montague Bernard, esq., greeting:

Whereas we have deemed it expedient that a commission should forthwith issue to inquire into and consider the legal condition of our natural-born subjects who may depart from and reside beyond the realm in foreign countries, and to report how, and in what manner, having regard to the laws and practice of other States, it may be expedient to alter and amend the laws relating to such natural-born subjects, their wives, children, descendants, or relatives;

And also to inquire into and consider the legal condition of persons, being aliens, entering into or residing within the realm, and becoming naturalized as subjects of the Crown, and to report how far and in what manner it may be expedient, having regard to the laws and practice of this country, of foreign states, or otherwise, to alter or amend the laws relating to such persons, or persons claiming rights or privileges through or under them:

Now know ye, that we, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these presents authorize and appoint you, the said George William Frederick, Earl of Clarendon, Edward Cardwell, Sir Robert Joseph Phillimore, Sir George William Wilshere Bramwell, Sir John Burgess Karslake, Sir Travers Twiss, Sir Roundell Palmer, William Edward Forster, William George Granville Venables Vernon Harcourt, and Montague Bernard, to be our commissioners for the purpose aforesaid.

And for the better effecting the purposes of this our commission, we do by these presents give and grant unto you, or any five or more of you, full power and authority to call before you such persons as you shall judge likely to afford you any information upon the subject of this our commission, and also to call for, have access to, and examine all such books, documents, registers, and records as may afford the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And we do, by these presents, will and ordain that this our commission shall continue in full force and virtue, and that you our said commissioners, or any five or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And we further ordain that you, or any five or more of you, may have liberty to report your proceedings under this commission, from time to time, if you shall judge it expedient so to do.

And our further will and pleasure is that you do with as little delay as possible report to us, under your hands and seals, or under the hands and seals of any five or more of you, your opinion upon the several points herein submitted to your consideration.

And for your assistance in the due execution of this our commission we have made choice of our trusty and well-beloved Charles Stuart Aubrey Abbott, esquire, to be sec-

retary to this our commission, and to attend you, whose services and assistance we require you to use from time to time, as occasion may require.

Given at our court at St. James, the 21st day of May, 1868, in the 31st year of our reign.

By her Majesty's command:

GATHORNE HARDY.

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### *Mr. Seward to Mr. Moran.*

[Circular.]

No. 12.] DEPARTMENT OF STATE,
*Washington, June* 16, 1868.

SIR: I have caused to be forwarded to you two copies of a volume containing expressions of condolence and sympathy, inspired by the assassination of Abraham Lincoln, late President of the United States.

One of these copies you will present to the government near which you reside, and the other to the gentleman who, at the death of President Lincoln, held the position of minister of foreign affairs.

In forwarding these volumes to their respective destinations, you will inform the minister of foreign affairs that this department acts in pursuance of a resolution of the Congress of the United States, approved March 2, 1867, and that these testimonial volumes are presented to foreign governments, corporations, associations, and individuals, as a mark of the grateful appreciation in which the generous expressions of condolence and sympathy in their national bereavement, received from them respectively, are held by the people of the United States.

I inclose two copies of the resolution of Congress, which you will please forward with the volumes in question.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

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*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That in addition to the number of copies of papers relating to foreign affairs now authorized by law, there shall be printed for distribution by the Department of State, on fine paper, with wide margin, a sufficient number of copies of the appendix to the diplomatic correspondence of 1865 to supply one copy to each senator and each representative of the thirty-ninth Congress, and to each foreign government, and one copy to each corporation, association, or public body, whose expressions of condolence or sympathy are published in said volume. One hundred of these copies to be bound in full Turkey morocco, full gilt, and the remaining copies to be bound in half Turkey morocco, marble edged.

Approved March 2, 1867.

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### *Mr. Moran to Mr. Seward.*

[Extract.]

No. 56.] LEGATION OF THE UNITED STATES,
*London, June* 20, 1868.

SIR: The appointment of the Hon. Reverdy Johnson to this mission, news of which reached London by telegraph on the 13th instant, has given much satisfaction, both in official circles and to the general public. Judging from the hearty manner in which I have been congratulated

upon this event by influential persons of all political parties, it is but natural to conclude that Mr. Johnson will enter upon his duties under circumstances highly favorable to the increase of the friendly feeling which now so happily prevails between the two nations.

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It will be a pleasure to me to welcome Mr. Johnson, and to afford him all the information and aid in my power on his reaching London.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 57.] LEGATION OF THE UNITED STATES,
*London, June 20, 1868.*

SIR: Referring to your dispatch No. 2156, of the 13th of April, to Mr. Adams on the matter of judicial reforms in Egypt, I now have the honor to forward two copies of a parliamentary paper on the subject, just issued by her Majesty's government.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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PAPERS RESPECTING JUDICIAL REFORMS IN EGYPT.

(Presented to both houses of Parliament by command of her Majesty, 1868.)

*Memorandum by Nubar Pacha on the alterations to be effected in the judicial relations of natives and foreigners.*

[Translation.]

The legislation which governs Europeans in Egypt, and determines their relations with the government as well as with the inhabitants of the country, is no longer based on the capitulations. Those capitulations remain but in name; they are supplied by an arbitrary legislation of usages, dictated by the whim of the chief agent—a legislation based on the antecedents, more or less abusive, which the force of things—urgency on one side and the desire to facilitate the settlement of foreigners on the other—have brought into Egypt, and which actually leaves the government without power, and the people without regular justice in their trade with Europeans. This state of things profits nobody—neither the foreign powers, nor the honest inhabitants of the country, whether foreign or native; it is used to the damage of the country and the injury of the government by those who make it a business to take advantage of it for their own profit.

The necessity of reform is urgent; as the European colonies increase, the foreign agents comprehend this, and they demand it. The government and the consuls agree on the principle of this necessity, but they do not agree on the method of putting it in practice; one wishes to discard the capitulations; abuses are adduced as laws and principles not to be set aside; in a word, justice is demanded, but as the means to obtain it are rejected the result is, that a native can get no justice in Egypt, neither as plaintiff nor defendant in a suit, he submits to be robbed, and is lucky if the strange tenant does not take even his house.

The government is often assailed by suits, which even the consuls acknowledge to be outrageous. The inhabitants will not trust the European; the government, knowing how aggressive the European is, is compelled to keep him at a distance, for fear of becoming a victim to him. Examples are too numerous to be cited; it is enough to know that the government has paid indemnities to the amount of $72,000,000, in four years. But we must add that these indemnities, paid through direct or indirect consular

influence, are represented as acts of unexampled generosity on the part of his highness by those very persons who forced them. But this is not all the harm! The government, wishing to attract the civilizing element of progress from Europe, whence it can only come, confides all its grand agricultural and commercial enterprises to Europeans, so as to draw capital by suitable remuneration, and then, rendered powerless, takes no care of the country. The Suez dock is the only one of the great works that has been finished by Europeans; all the other works given to them are either unfinished or are not yet begun, and in such condition they call for indemnity.

This manner of doing justice demoralizes the country, and all the efforts of his highness are frustrated by such a demoralization; the Arab, judging Europe by the specimen of its people among us, is opposed to western progress, and accuses the Viceroy and his government of weakness or error.

For more than 40 years the Europeans have enjoyed the right of property in Egypt; they own property and hold it under the jurisdiction and legislation of the country; the consuls accept this principle in theory, but reject it in practice: they say the capitulations protect the European, and if he owns a house or farm he is exempt from taxes.

This state of affairs, contrary to the letter and spirit of the capitulations, not only hinders the development of the resources of the country, and prevents its produce from contributing to the commerce and manufactures of Europe, but also tends to ruin the prosperity of the country both morally and materially.

As the only remedy for this, your highness proposes the organization of a system of justice which will give to Europe all the security it has a right to demand.

Your highness thinks the foreign element ought to enter into the organization of our courts of justice; this element, so small in Cairo, equals the natives in Alexandria; many Europeans are established in the country as merchants or mechanics, and they are in daily and hourly intercourse with the natives. This element, therefore, ought to be considered in the organization of our courts; ample securities ought to be accorded to it, so as to give it confidence in our people and in our government.

The complete separation of the courts from the government is the principle; justice ought to emanate from the government, but should not be influenced by it, nor should the consuls have any influence in it.

To attain what your highness desires, the powers must be assured that "justice emanates from the government, but does not depend upon it." The only way to inspire such trust is to have a body of magistrates, or judicial department. A good judge must not only be just and honest, he must know the law, and to know it, he must study. Our present magistrates have a perfect knowledge of the law that was necessary for uniform justice to people who were similar in habits and wants.

New wants demand new laws; Europeans have brought new customs and new habits into the country. A mixed system has begun to be introduced into our laws and codes. New men are needed to apply this new system. Egypt must do for her courts what she has done for her army, her roads, her industry, and her health system. The proper element to effect this is the foreign element, a corrective to the native. What has been done for material order must be done for moral order, that is, justice must be organized.

The necessity of this mixed system is deeply felt; in fact, it has been loudly called for ever since the ambassadors demanded it in Constantinople, where a mixed commercial court is organized for the benefit of foreigners and natives, whether as plaintiffs or defendants.

Now this system should be extended to the civil and criminal courts. The commercial courts at Alexandria and Cairo are not proper tribunals, because they differ from those at Constantinople. They are more properly juries; yet in commercial cases the proceedings are convenient, and ought to be preserved with certain modifications. This jury, first instituted for suits between natives and foreigners, is now given up. Consuls claim the cognizance of suits in which their countrymen are defendants, and exceptions to jurisdiction or competency are often made when natives are defendants. This exception is founded on the incompetency of members composing the tribunal. I will not discuss the accusation made against this tribunal, because I believe it to be without foundation; but I will repeat your highness's declaration, "Let us give ample security."

I suggest the keeping of the two mixed courts of commerce at Cairo and Alexandria; but instead of composing them of three members appointed by the consuls from the Europeans, and three natives appointed by the government, to hold sessions in turn, I propose but four members—two named by consuls from among the most noted and worthy merchants, and two by the government, from among the natives who know the Europeans best, and are brought in daily contact with them. These members should sit alternately, as they do now; I would have an Egyptian preside, with a European vice-president, recommended by the minister of justice. The latter office should be permanent.

Besides these two courts, it would be necessary to have a court of appeals to sit in Alexandria, to be composed of three Egyptian members, appointed by your highness from our young jurists who have studied in Europe, and three other judges from Europe, recommended by their governments. The chief of this court should be an Egyp-

tian. To aid these commercial courts there should be two civil tribunals, composed of two foreigners and two Egyptians, presided over by a native Egyptian.

The court of appeals in Alexandria should have jurisdiction over decisions of the civil courts.

Disputes of Europeans about land and other property have always been decided by our courts. They have always decided properly; their judges understand their business thoroughly; foreign judges are not needed there. I propose that they be left as they are.

The question of the permanency of the judges has attracted your attention. You rightly think that permanency in office might be inconvenient in new courts, as yet untried; and you propose five years as a term, so that the efficiency of the new system may be thoroughly tested, to the complete satisfaction of both parties.

Criminal trials are more complicated than civil or commercial cases. They might be submitted to the letter and spirit of the capitulations, as was done in Mehemet Ali's time.

How were criminal cases conducted in the time of the great Viceroy? When a crime or offense was committed by a foreigner, the governor of the citadel of Cairo investigated the case, judged it, and sent the condemned, with the judgment, to his consul, to have sentence executed. As the number of Europeans was not large at that time, and crimes were few, consuls had not much trouble with their countrymen. I do not remember a troublesome case; or if there was mistaken lenity, there was no serious consequence. Those kind of affairs passed off quietly, as all were interested in the maintenance of order, and had the will and power to maintain it.

I must observe, however, that this kind of process did not entirely accord with the capitulations; they did not remove foreigners from the jurisdiction of the country, but subjected their trial to the supreme court, and allowed their interpreters to act for them in their defense; and the judgment was always executed.

Since Mehemet Ali's time the number of Europeans has increased, and of course crime has increased in proportion; and as consuls began to disregard the judgments of the government, both consuls and interpreters were ordered to be present at the trial. But this mode of proceeding, at first satisfactory, soon began to fall into disrepute. In 1848, the consuls, urged by their countrymen, took justice into their own hands, contrary to law, only having the presence of a local policeman, under pretext that, as the penalty was to be executed in their own country, the trial ought to be conducted according to the laws of that country in order to be valid. Such is the present state of things, not only in criminal cases, but in trials for offenses and misdemeanors. Justice is thus completely given up to individual will, instead of being rendered by the proper institutions. The position of government is no longer tenable, when we reflect that its officials have not the power to prevent the slightest infractions, or enforce the road regulations or coach rules in public places; for, if one consul is disposed to correct a coachman for a violation of regulations, at the request of the police, another will treat the affair as trifling, simply because his colleague thinks it right and important.

The present object of your highness's government, therefore, is not to do away with the capitulations, but to conform to their letter and spirit, and call for the removal of the abuse of personal power by the representatives of foreign governments. Now what is the intent of the capitulations? It is to protect the foreigner, not to give him unlimited license. This protection is furnished by the courts, with the dragoman's assistance, and the right of appeal to the supreme court.

The objections to the civil courts have been applied to these; that is, the absence of law, and the want of responsible judges. Desiring to regulate intercourse with foreign powers, and laying aside the inalienable right of every government to make every inhabitant of the territory amenable to the laws, your highness has done well to propose the organization of mixed criminal courts, similar to the civil tribunals of that kind.

The capitulations make the domicile and person of the foreigner inviolable. It is not the intention to abrogate this principle. Your highness wishes to strengthen it; you wish to give the European, accused of crime, greater protection than the capitulations afford him; in place of a silent dragoman, you would give him European judges and a jury of natives and Europeans. If more security is demanded, your highness will grant it; for your intention is to protect the honest citizen, whose safety is endangered by the impunity of criminals. Minor infractions, such as the French law terms offenses or misdemeanors, will be submitted to these mixed tribunals. An appeal is allowable in all cases to the supreme court at Alexandria, with every possible guarantee. Only the penalty of imprisonment shall apply in Egypt; and the imprisonment shall be at the consulate if the consul demands it.

After the courts are organized, attention will be paid to the laws to be observed in them. The French code of commerce, already adopted at Constantinople by the powers, is the legislation that now rules in Egypt. For the civil law, your highness intends to invite a commission of foreign jurists to join our lawyers in arranging the provisions of the code Napoleon, so as to accord with our legislation. That labor is already half

accomplished; the conclusion of it will neither be long nor arduous. The commission will also be instructed to make our penal laws harmonize with those of the French penal code.

In conclusion, all that your highness asks is a return to the capitulations, both in civil and criminal matters; and such a return as will give strangers a greater security than was formerly accorded by those capitulations.

The court, as now arranged, is a court of natives, that decides in presence of the dragoman, who is merely a mute witness, without a deliberative vote. Your highness wants a reform, giving foreigners a true court in place of the mute witness, with a revised code, and a mixed jury, in accordance with European penal and civil laws.

This organization, fashioned upon the judiciary system of Algeria, offers all desirable guarantees, in my opinion.

Your highness thinks the powers cannot refuse this reform; for they have always advocated every moral and material development in Egypt. In the present condition of the country, if they refused to support this most valuable social guarantee, they would be offering obstacles to progress and endangering the existence of Egypt.

N. NUBAR.

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*Lord Stanley to Colonel Stanton.*

FOREIGN OFFICE, *October* 18, 1867.

SIR: I have received your letter of the 9th instant, on the subject of the reforms which the Viceroy of Egypt desires to introduce into the judicial system in that country.

I had previously received from Mr. Fane a copy of the memorandum on the subject which Nubar Pasha had laid before the Viceroy, and Nubar Pasha, during his stay in this country, had entered upon it with me.

Her Majesty's government cannot doubt that the system which now prevails in Egypt in regard to suits in which foreigners on the one hand, and the government and people of Egypt on the other, are concerned, is as injurious to the interests of all parties as it is certainly without warrant of any treaty engagement. Her Majesty's government are perfectly willing, therefore, to lend their aid to the Egyptian government in an attempt to establish a better system, and if the Egyptian government succeed in obtaining the concurrence of other powers for the same purpose, you may assure Nubar Pasha that the cordial co-operation of Great Britain will not be withheld from so salutary a work.

You will say, however, that her Majesty's government consider that practical results, even though they may fall short of theoretical perfection, are principally to be aimed at, and that accordingly it might be advantageous, at all events in the beginning, not to attempt to frame a new code of law or procedure, but to apply, as far as altered circumstances may admit, an improved system of procedure to the law as it at present stands, amended in any necessary particulars by the legislation of foreign governments in similar matters; and I do not hesitate to say that in the application of this principle her Majesty's government would not be disposed to insist on the embodiment in the new arrangement of the maxims of British law in contradistinction to those of the law of any foreign country; they would look rather to the requirements of natural justice, and to the means, from whatever source derived, by which those requirements could best be provided for.

It appears to her Majesty's government that the basis on which proceedings should be initiated might with the greater safety, and with the view to more early results, be the adaptation to altered circumstances of the principles laid down in the ancient capitulations, the departure from which has led in a great measure to the evils so justly felt.

Those capitulations, indeed, were established under a very different state of things from that which now exists, and their object was to secure foreigners from arbitrary violence and exactions on the part of the local authorities. But still, although reserving for extra-territorial tribunals exclusively the settlement of questions, whether of a civil or criminal nature, in which foreigners were alone concerned, the capitulations did not pretend to deprive the local government of jurisdiction over foreigners in matters, whether criminal or civil, in which they were brought into collision with the laws of the territorial sovereign. They reserved, however, as a protection to foreigners against the arbitrary local will of tribunals, a certain right of concurrence or supervision, which might act as a check against abuse.

In process of time this check, especially in Egypt, has become the great abuse, and by degrees the authority of the local tribunals has been usurped or set aside by the encroachments of an extra-territorial jurisdiction.

This is the state of things which the Egyptian government desire to remedy, and they cannot be more disposed to make the attempt than are her Majesty's government to second them in it.

Her Majesty's government have no fondness for an extra-territorial jurisdiction, even if limited by the strict letter of the capitulations. They would hail with the utmost satisfaction such an improvement in the judicial system of the Ottoman empire, and specifically of Egypt, which is so important a part of it, as would justify them in altogether renouncing any judicial action in that country, and leaving the disputes of their subjects, and the crimes which they may commit, to the exclusive jurisdiction of the local government, as is the case in other countries.

With such feelings, her Majesty's government are certainly not inclined to hold out for a jurisdiction to which they have no treaty right, which they admit to be a usurpation, though brought about by force of circumstances, and which is as injurious to British interests as it is derogatory to the character and well-being of the Egyptian administration.

But her Majesty's government consider—and they are glad to perceive that such is the ground on which the application of the Egyptian government is founded—that foreign powers have a right to expect that any new system which may be inaugurated in Egypt should afford ample security to the foreigner that in pleading before an Egyptian tribunal he will have nothing to apprehend from the venality, the ignorance, or the fanaticism of his judges; that the law to be applied to his case, whether as plaintiff or defendant, shall be clear and patent to all; and that the forms of procedure, and more especially in matters of testimony, shall be well defined, and not admit of being in any point arbitrarily departed from on any ground whatever.

Her Majesty's government consider that the course which the Egyptian government propose to adopt for arriving at the end in view is that most likely to lead to a good result, if, as I said before, the inquiry is to be directed to what is really practicable rather than what may be desirable in the abstract.

Her Majesty's government will readily take part in any inquiry which may be set on foot for this purpose; and when the Egyptian government shall have made known to them that they have secured the consent of the other principal powers to be represented by commissioners in a preliminary inquiry designed to result in an improved judicial system in Egypt, her Majesty's government will at once name one or more commissioners to assist on their part in the business. If, as will naturally be the case, the commission is to sit in Egypt, her Majesty's government are disposed to think that instead of limiting the character of the commissioners to that of persons possessing legal knowledge, it would be desirable that the chief political representative of each nation should also take part in the commission, inasmuch as political considerations are to a certain extent involved in the inquiry, and so, by such an intermixture of character among the commissioners, predilections in favor of technicalities which might be expected to prevail in an assembly of purely legal commissioners would in a great measure be neutralized.

You may furnish Nubar Pasha with a copy of this dispatch, as containing the answer of her Majesty's government to the proposal which he has laid before them on behalf of the Viceroy; and you will inform his excellency, at the same time, that her Majesty's ambassador at Constantinople will, as a mark of respect due to the Sultan, be instructed to communicate it to the Porte; while her Majesty's representatives at other courts will in like manner be authorized to communicate it to the governments to which they are accredited, as an exposition of the manner in which the proposal of the Egyptian government has been received by that of her Majesty.

I am, &c.,

STANLEY.

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*Mr. Seward to Mr. Moran.*

No. 14.] DEPARTMENT OF STATE,
*Washington, June* 22, 1868.

SIR: The correspondence recorded in your legation is full of remonstrances and expostulations, which, by the President's direction, I have addressed to her Majesty's government against the imprisonment of Messrs. Warren and Costello.

The reasons have been fully and frequently assigned why the judicial severity maintained by the British government in these cases has tended to embarrass the friendly relations between the two countries, and to protract the political excitement which has so greatly disturbed the peace of the British realm and of the British provinces adjacent to the United States. On many occasions I have had the honor to urge upon

the British government the necessity of a modification of the laws of the British realm in the case of subjects of Great Britain who have become citizens of the United States under our naturalization laws.

By the President's direction, also, I have with much urgency invited the British government to enter into an equal treaty with the United States on that subject, as a proceeding which is essential for the removal of discontents which, if suffered to continue, might involve the two nations in reprisal or war. Hitherto these proceedings have been unfruitful, although we have many friendly assurances of a favorable disposition on the part of the British government.

In connection with this matter, the President now makes it my duty to give you a copy of a resolution of the House of Representatives of the United States, which was passed on the 15th of June, "requesting the President to take such measures as shall appear proper to secure the release from imprisonment of Messrs. Warren and Costello, convicted and sentenced in Great Britain for words and acts spoken and done in this country, by ignoring our naturalization laws, and to take such other measures as will secure their return to our flag with such ceremonies as are appropriate to the occasion."

I further call your attention to the fact that a bill which has passed the House of Representatives is now engaging the attention of the Senate, the effect of which bill, if it shall become a law, will be to require the President to make reprisals in cases of judicial denial in Great Britain to naturalized Americans of the rights which are conceded there to native American citizens.

You will be expected to read the resolution referred to, together with this instruction to her Majesty's principal secretary of state for foreign affairs, and to give him a copy of these papers if he shall request it.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

BENJAMIN MORAN, Esq., *&c.*, *&c.*, *&c.*

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FORTIETH CONGRESS, SECOND SESSION—CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES, *June* 15, 1868.

On motion of Mr. Robinson,

*Resolved*, That the President of the United States is hereby requested by this House to take such measures as shall appear proper to secure the release from imprisonment of Messrs. Warren and Costello, convicted and sentenced in Great Britain for words and acts spoken and done in this country, by ignoring our naturalization laws, and to take such other measures as will secure their return to our flag, with such ceremonies as are appropriate to the occasion.

Attest:

EWD. MCPHERSON, *Clerk.*

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*Mr. Moran to Mr. Seward.*

[Extract.]

No. 60.] LEGATION OF THE UNITED STATES,
*London*, *June* 27, 1868.

SIR: The exciting political event of the week has been the debate in the House of Lords on Mr. Gladstone's suspensory bill; a bill to prohibit any but essentially necessary appointments in the Irish established

church. From the temper of the hereditary branch of the legislature it is believed by close observers of the spirit manifested in that body that the bill will be thrown out by more than one hundred peers. But the telegraph will supply the result of the vote long before this can reach you. The bill has been much discussed. Many whigs object to it totally. Many liberals want time to consider. Many think it unnecessary, since no great appointments are likely to be made, except with reservation as to future legislation. The bishops are all agreed to oppose. Thus the question will be settled for this year by the vote in the Lords, which will probably be arrived at on Monday.

I was present last evening, and heard Lord Carnarvon deliver his able and well-considered speech. There was an unusually large attendance of peers, as well as of spectators, and his lordship's remarks were frequently greeted with loud approbation by the opposition. Altogether it was a masterly effort for a man who has not yet passed his thirty-seventh year.

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I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 66.] LEGATION OF THE UNITED STATES.
*London July* 4, 1868.

SIR: The telegraph will have informed you long before this can reach Washington, of the arrival in London this week of Sir Robert Napier from his successful military expedition to Abyssinia, and of the vote of thanks to him and his officers and men, passed unanimously on Thursday evening by Parliament. Herewith I transmit a copy of the *Times* of the 3d instant, containing reports of the speeches made in both houses by the movers and seconders of these resolutions of thanks.

An episode of a remarkable character occurred in the House of Lords the same evening, in the debate on the boundary bill. Earl Russell and other opposition leaders left the House with the mass of their followers, on the ground that the government had broken faith with them. The event is said to be without precedent, and has been much discussed, particularly as it was followed in the same place by a rather stormy scene last night. I inclose copies of the leading newspapers of the day containing comments upon these novel incidents.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 70.] LEGATION OF THE UNITED STATES,
*London, July* 8, 1868.

SIR: With respect to your dispatch No. 12, of the 16th ultimo, I have the honor to state that I have forwarded to Lord Stanley the two volumes to which it refers, containing expressions of condolence and sym-

pathy on the assassination of President Lincoln, one being intended for the British government, and the other for Earl Russell, who at the time of the murder was her Majesty's principal secretary of state for foreign affairs. I transmit copies of the notes relating to these volumes which passed between me and Lord Stanley in the performance of the duty of forwarding them to his lordship under your directions. As bearing upon the recognition by the Congress of the United States of the expressions of sympathy from England on the assassination of President Lincoln, I inclose copies of two notes arising out of the transmission by myself of one of these volumes, with a note from you to Tom Taylor, esq., the author of the ode on Mr. Lincoln, which appeared in the London *Punch* of the 6th of May, 1865. Mr. Haswell, of the department, had asked me to ascertain the name of the author of the poem and send the book to him. Through a friend I learned that Mr. Tom Taylor was the writer. I trust that his hearty letter, acknowledging the recognition by you of that ode, will not be unwelcome to you and to Congress.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Lord Stanley.*

LEGATION OF THE UNITED STATES,
*London, July 2*, 1868.

MY LORD: By direction of my government I have the honor to forward herewith two copies of a volume containing expressions of condolence and sympathy inspired by the assassination of Abraham Lincoln, late President of the United States.

One of these volumes I have the honor to forward as a present from my government to that of her Majesty, and I will thank your lordship to cause the other to be presented in the name of the United States to the Right Honorable Earl Russell, who at the death of President Lincoln held the post of her Majesty's chief secretary of state for foreign affairs.

I have been instructed to inform your lordship that in forwarding these volumes the Department of State acts in pursuance of a resolution of the Congress of the United States, approved March 2, 1867, and that these testimonial volumes are presented to foreign governments, corporations, associations, and individuals, as a mark of the grateful appreciation in which the generous expressions of condolence and sympathy in their national bereavement, received from them respectively, are held by the people of the United States.

I inclose two copies of the resolution of Congress above referred to, which I will thank your lordship to cause to be placed with the two volumes transmitted herewith.

Renewing the assurances of my highest consideration, &c., &c., &c.,

BENJAMIN MORAN.

The Right Hon. Lord STANLEY, *&c., &c., &c.*

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*Lord Stanley to Mr. Moran.*

FOREIGN OFFICE, *July* 4, 1868.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, forwarding two volumes, one of which, in pursuance of a resolution of the United States Congress, is intended as a present to her Majesty's government from that of the United States, as a mark of the grateful appreciation entertained by the people of the United States of the generous expressions of condolence and sympathy which they received from this country on the melancholy occasion of the assassination of Mr. Abraham Lincoln, late President of the United States.

In requesting you to convey to your government the thanks of that of her Majesty for the highly interesting correspondence contained in the volumes in question, I have to add that her Majesty's government fully appreciates the kindness of the government

of the United States in presenting them with such a record of the general feelings, shared in most deeply by this country, which the assassination of Mr. Lincoln called forth.

I beg to add that I have forwarded to Earl Russell the volume intended for his lordship.

I have the honor, &c.,

STANLEY.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

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*Mr. Moran to Mr. Taylor.*

LEGATION OF THE UNITED STATES,
*London, July* 6, 1868.

SIR: I have the honor to forward herewith a volume containing expressions of condolence and sympathy inspired by the assassination of Abraham Lincoln, late President of the United States, together with a letter from the Secretary of State of the United States, which I have been requested to transmit to you as a recognition of the sentiments which pervade the ode written by you on the death of Mr. Lincoln, which appeared in Punch of the 6th of May, 1865.

Trusting that the volume and letter will be acceptable to you, I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

TOM TAYLOR, Esq.,
8 *Richmond Terrace, Whitehall.*

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*Mr. Taylor to Mr. Moran.*

LOCAL GOVERNMENT ACT OFFICE,
8 *Richmond Terrace, Whitehall, S. W., July* 7, 1868.

SIR: I have much pride and pleasure in receiving at your hands the volume containing expressions of condolence and sympathy inspired by the assassination of the late lamented President of the United States, which has been forwarded to me by direction of Mr. Secretary Seward.

The ode, reprinted from Punch of May 6, 1865, and written by me, has at least the merit of expressing the sincere feelings of the author on the character of Lincoln, the nobleness with which he rose to the height of a great position, the grand self-forgetfulness of his life, and the sadness of the catastrophe which struck him down at the moment he was achieving the work to which he had devoted himself.

Knowing no nobler character since Washington, and being unable to conceive a worthier successor of that pure statesman, I feel proud and grateful that my poor lines should be connected with so venerable a memory.

I have to request that you will convey to Mr. Secretary Seward my deep sense of the honor he has done me in printing my tribute in this volume, and of his courtesy in sending it to me. I have to thank you personally also for the kindness of your own letter, transmitting Mr. Secretary Seward's letter and the volume to which it refers, and I have the honor to be your obedient and obliged servant,

TOM TAYLOR.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

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*Mr. Moran to Mr. Seward.*

No. 72.] LEGATION OF THE UNITED STATES,
*London, July* 11, 1868.

SIR: Lord Stanley received me at the Foreign Office at 1 o'clock on the 9th instant, when I read to him your dispatch No. 14, of the 22d of June, and the resolution of the House of Representatives of the 15th of that month, requesting the President of the United States to take such measures as shall appear proper to secure the release from imprisonment of Messrs. Warren and Costello.

His lordship appeared to be prepared for some such communication. He listened very attentively as I read, and when I had concluded said

he would be pleased to have copies of the papers. I placed them in his hands, when he asked if I expected a formal reply at the moment, suggesting at the same time that his answer should take the usual diplomatic course and go through Mr. Thornton at Washington. I said I presumed his lordship would prefer to adopt that mode, and I should not therefore expect his answer then.

We had a short conversation on the prospect of an early arrangement between the two nations of the question of expatriation, in which his lordship repeated substantially the views he expressed to me at our conference on this subject on the 15th of June, and which views I reported to the department in my dispatch No. 53, of the 16th of that month.

In the course of the conversation he briefly referred to that part of the resolution of the House of Representatives in which it is stated that Messrs. Warren and Costello were convicted and sentenced in Great Britain for words and acts spoken in the United States, observing that he thought the statement an error. His recollection was that they were members of the Jacmel expedition, were arrested in Ireland on landing from that vessel, and were tried for acts against the Crown committed in that country. But he would inquire and make himself acquainted with the facts before replying to your dispatch. Personally he is disposed to deal leniently with them, and the government shares in this feeling.

Nothing was said as to when his lordship's answer would be ready, but I inferred from his manner, which was very friendly throughout, that it would be sent with as little delay as possible. My impression is that it will go forward to Mr. Thornton to-day.

The republication here of your dispatch No. 14, from the American newspapers, has prompted some editorial comment in the English and Irish press; and as bearing in some measure upon it, Mr. John Stuart Mill has given notice to the chief secretary of state for Ireland that he will on Monday next ask whether the government would not take into their favorable consideration the question whether the time has not arrived when the very heavy sentences which have been passed on Messrs. Warren and Costello should be remitted or mitigated. I trust the answer will be in the affirmative.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Moran.*

No. 21.] DEPARTMENT OF STATE,
*Washington, July* 16, 1868.

SIR: I inclose a certificate of the naturalization, and of the honorable discharge from the United States army, of Lieutenant Colonel William G. Halpin, and two affidavits contradicting testimony supposed by the deponents (it is believed erroneously) to have been given on Colonel Halpin's trial, of his personal participation in an attack by so-called Fenians upon the barracks at Stepaside, near Dublin. You will avail yourself of these documents whenever you have an opportunity of using your good offices with her Majesty's government for the release of Colonel Halpin or the mitigation of the sentence he is now suffering.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

*Mr. Halpin to Mr. Seward.*

186 COURT STREET, CINCINNATI, OHIO,
*June* 26, 1868.

SIR: I would respectfully beg to call your attention to the case of my brother, Lieutenant Colonel William G. Halpin, late United States army—sometimes styled "General" Halpin—lately tried in Ireland by the British government on a charge of "treason-felony," convicted and sentenced to penal servitude for a long term of years.

I also beg to inclose herewith transcripts of my brother's declarations of intentions, made in the year 1847, as well as his subsequent certificate of naturalization obtained in the year 1852, together with his discharge (original) from the army of the United States about the close of the war. And also two affidavits, from Messrs. Anderson and Breslin, formerly of Dublin, totally disproving the presence of my brother at the place where a certain overt act was alleged to have been committed, and of which it was proven—falsely proven, it now appears—my brother was the perpetator or director, and for which he is now unjustly suffering all the *mild treatment* of a British convict prison.

For the past 21 years my brother has been a resident of this city, and for 16 of those years has been a naturalized citizen of these United States; having on his arrival in this country gone through the solemn ceremonial of "abjuring and renouncing forever all allegiance to every foreign prince, potentate, state, or sovereignty whatsoever, and particularly to the Queen of Great Britain and Ireland." And having subsequently occupied a respectable position in this community, where he followed his profession of civil engineer until the outbreak of the rebellion, when he gave up a lucrative business, together with all the endearments of home, family, and friends, and joined the army. He subsequently raised a company of volunteers, of which he was commissioned captain, and offered his life and services in the cause of his adopted country, in order to aid in saving her from destruction, as well as carrying out in good faith the terms of his oath of allegiance, the price of his position as a citizen of a then great nation. How he served his adopted country during the four years of her dreadful tribulation may, in part, be judged by the rank he held at the termination of the war when mustered out of the United States service. Subsequently my poor brother, in order to recruit his shattered health after a long campaign, visited his native land, Ireland, and while on shipboard off Cork, in the act of returning home to this country, was seized upon, thrown into prison, and tried on a charge of "treason-felony."

I need hardly say to you, sir, how facile it is for England in such cases, with the aid of partisan judges, packed juries, and subsidized perjured informers, to procure convictions. In vain did my brother protest against the proceedings. In vain did he plead and proclaim his American citizenship. And, I regret to say, equally in vain did he seek the aid of the American consul, Mr. West, at Dublin. Suffice it to say that, not having been allowed proper facilities for his defense, his conviction was secured, and he is now undergoing the sentence passed upon him of 15 years' penal servitude in a British convict prison.

If the solemn ceremonial of naturalization, with a probation of five years' residence, through which every foreigner must pass, upon his arrival in this country, before he can consider himself an American citizen, confers no other or more valuable privilege than the permission to vote at elections or the honor (?) of shouldering a musket in the hour of the country's danger, the candidate for citizenship should, at least, be apprised of the only benefits (?) attached to the position he seeks, ere he divests himself, as far as he can, of his original allegiance. Allegiance, though owing, perhaps, to a despot, who may be exacting in his demands upon the fealty of those whom he claims as subjects, will, nevertheless, protect them with his flag at any cost and at almost any sacrifice.

Perhaps I cannot at this moment cite you to an instance in history, either past or present, more striking in this regard than the course which the British nation—of whose conduct in relation to my brother and other American citizens I would now complain—pursued in the late Abyssinian war. We see her embarking a large army, at an enormous expense, to a distant quarter of the globe to encounter not only a formidable enemy, but a climate almost fatal to her soldiers. And for what? Simply to rescue from captivity some half a dozen persons who, if not absolutely culprits, were, at least, frail meddling fanatics, who transgressed not only the laws of the country, but outraged the liberties extended to them as privileged visitors. But they were British subjects; they felt that they were injured; they claimed the protection of their own flag, and the world now knows that that claim was not made in vain. Shall an American citizen, a name hitherto honored and respected abroad, be less favored or less entitled to the protecting influence of his country's flag?

I cannot, I will not, believe, sir, that this great country will tacitly permit any nation to treat her citizens, and consequently herself, with outrage or insult.

The confusion occasioned by factious political contentions at home may, for a time, distract the attention of the best government from vital national matters in this rela-

tion, in which the honor of the nation and the rights and liberties of her citizens are at stake. But is it too much to expect, sir, that these matters will not be permitted to remain in abeyance, and that now, when this confusion and distraction has, in a measure, passed away, that the honor of this republic will be maintained? That its covenants with its adopted citizens, who may have endured so much for their adopted country as my brother has, may be kept in good faith, and not disregarded, and that the American nation will not suffer itself to be insulted in the person of its most humble citizen, by any nation in the world, whether that citizen be native-born or naturalized?

May I beg to request, sir, that you will place the inclosed documents, affidavits, and statement of facts in relation to my brother's case, before the President, that so it may be brought under the notice of the congressional Committee on Foreign Relations for such action as may be deemed proper in the premises; and that when used, they (the originals) may be returned to me, lest, perhaps, in other times—if my poor brother should live to return to this his adopted country—they may prove useful—when an American citizen shall be protected and respected abroad—when a certificate of naturalization will be worth more than the paper upon which it is written, and something other than a sure and certain passport to a British dungeon.

I have the honor to be, sir, very respectfully, your most obedient, humble servant,

JOHN HALPIN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, United States.*

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CITY AND COUNTY OF NEW YORK, *ss:*

Niall Breslin, of the city and county of New York, recently confined in Kilmainham and Mountjoy prisons, in the city of Dublin, Ireland, being duly sworn, deposes and says, "That he knows William G. Halpin, now a convict undergoing a sentence of 15 years' penal servitude in an English prison; that he knew the said Halpin in the city of Dublin during his visit to Ireland in 1867; that he was present at his trial in Dublin in the said year on a charge of 'treason-felony,' on which charge he was convicted; that the only overt act relied on and proven by the prosecution against the said Halpin on the said trial was, that he was present at an alleged attack on a certain police barracks at a place called 'Stepaside,' in the county of Dublin, Ireland, on the night of the 5th day of March, 1867; that he knows of his own knowledge that the said William G. Halpin was not at the said place (Stepaside) on the day or night above named, but was with this deponent in Dublin at the time of the alleged attack on said police barrack; that he believes that on proof of this charge, by false testimony, the said Halpin was convicted of said alleged overt act, and is now undergoing the sentence of 15 years' penal servitude; that the said Halpin, in company with this deponent, did, in the city of Liverpool, in England, on or about the 1st day of July, 1867, engage passages for New York in the steamship City of Paris; that the said Halpin and this deponent did proceed on the voyage in said steamship, from Liverpool, on the 3d day of July, 1867; and that on the 4th day of July, in said year, when said steamship put into Queenstown, Cork harbor, for mails and passengers, the said Halpin and this deponent were then and there arrested, taken on shore, conveyed to Dublin, and confined in Kilmainham prison; that the said Halpin did not get permission to take his trunks or personal luggage on shore with him, and was thereby prevented from having access to his American naturalization papers, passports, or other documents necessary for his defense, and did not subsequently recover them; that on the trial of the said Halpin, in Dublin, a certain letter was produced, signed ——— Dunlap, which was falsely proven by the prosecution to have been found on his person, but which this deponent solemnly swears was found in his own (this deponent's) carpet-bag, and not on the person or among the effects of the said Halpin; that this deponent was called as a witness by the said Halpin on his trial, and did so testify as above stated

"That this deponent was kept in close confinement in said Kilmainham and Mountjoy prisons for about 10 months, and was then, on the 29th day of April, 1868, and without trial, placed on board the steamship City of Antwerp, at Cork, and conveyed to New York, where I now reside."

NIALL BRESLIN.

Subscribed and sworn to before me, this 23d day of June, 1868.

[SEAL.]

JAMES M. SHEEHAN.
*Notary Public, City and County of New York.*

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CITY AND COUNTY OF NEW YORK, *ss:*

Michael Anderson, of the city and county of New York, formerly of the city of Dublin, Ireland, being duly sworn, deposes and says:

That he knows William G. Halpin, now a convict undergoing a sentence of 15 years' penal servitude in an English convict prison; that he knew the said Halpin during

his visit to Dublin in the year 1867; that he remembers the night of the 5th day of March in the said year 1867, when it was alleged that an attack was made by a body of "Fenians" on a certain police barracks at a place called Stepaside, in the county of Dublin; that he has been informed and believes that on the trial of said Halpin in Dublin, it was proven by the prosecution that the said Halpin was present at and directed the said alleged attack on said police barracks at Stepaside, which is said to have constituted an overt act of "treason-felony," and of which the said Halpin was convicted and is now undergoing sentence of penal servitude in England. And this deponent does solemnly swear and declare that of his own knowledge the said Halpin was not at Stepaside on the day or night of the 5th of March, 1867, as above named, when said alleged attack on the police barrack was said to have been made, but was in the company of this deponent and some other friends in Dublin. And this deponent further says, that he was in the city of New York at the time of the trial of said Halpin in Dublin, and therefore could not testify to such fact as above stated, as he certainly would have offered to do had he been in Dublin during the trial of said Halpin; that about the month of April, 1867, this deponent emigrated from Ireland to the United States, and now resides in the city of New York.

MICHAEL ANDERSON.

Subscribed and sworn to before me, this 25th day of June, 1868.

[SEAL.]

JAMES M. SHEEHAN,
*Notary Public, City and County of New York.*

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*Declaration of intention.*

UNITED STATES OF AMERICA,
*State of Ohio, Hamilton County, ss:*

Personally appeared before me, the undersigned, clerk of the court of common pleas within and for the county of Hamilton aforesaid, William G. Halpin, a native of Ireland, aged about twenty-eight years, bearing allegiance to the Queen of England, who emigrated from Liverpool on the 28th day of August, 1847, and arrived at New York on the 28th day of October, 1847, and who intends to reside within the jurisdiction and under the government of the United States, to wit, Cincinnati, Ohio; and makes report of himself for naturalization, and declares on oath that it is his *bona fide* intention to become a citizen of the United States, of America and to forever renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, and sovereignty whatsoever, and particularly to the Queen of the United Kingdom of Great Britain and Ireland.

WILLIAM G. HALPIN.

Sworn to and subscribed before me, this 10th day of April, 1850.

E. C. ROLL,
*Clerk of the Court of Common Pleas of Hamilton County, Ohio.*

I certify the foregoing to be a true copy of the original record. In witness whereof, I have hereunto set my hand, and affixed the seal of said court, at Cincinnati, this 15th day of April, 1868.

[SEAL.]

T. BISHOP DISNEY,
*Clerk Court of Common Pleas, Hamilton County, Ohio.*

A. D. DISERENS, *Deputy.*

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UNITED STATES OF AMERICA,
*State of Ohio, Hamilton County, ss.*

Be it remembered, that on the 13th day of November, in the term of November, 1852, of the court of common pleas, holden within the county of Hamilton aforesaid, personally came William G. Halpin, a native of Ireland, and produced a certificate under seal, that on the 10th day of April, A. D. 1850, he declared his intention to become a citizen of the United States of America, before the clerk of the court of common pleas of Hamilton county, Ohio, agreeably to the act of Congress in such case made and provided, and proved his residence and character by the oath of Andrew McKeown, and being admitted to citizenship by this court, took the oath to support the Constitution of the United States of America; and that he then did absolutely and entirely forever renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Queen of the United Kingdom of Great Britain and Ireland.

This is therefore to certify that the said William G. Halpin, having complied with the laws of the United States in such case made and provided, was therefore admitted a

citizen of the United States, as appears from the journal of said court. (Criminal Minutes, vol. 2, page 304.)

In witness whereof, I have hereunto set my name, and affixed the seal of our said court, at Cincinnati, this 15th day of April, A. D. 1868.

[SEAL] T. BISHOP DISNEY, *Clerk.*

A. D. DISERENS, *Deputy.*

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*Copy of W. G. Halpin's army discharge.*

*To all whom it may concern:*

Know ye, that William G. Halpin, a lieutenant colonel, company —, 15th regiment of Kentucky infantry volunteers, who was enrolled on the 9th day of February, 1864, to serve three years or during the war, is hereby discharged from the service of the United States this 14th day of January, 1865, at Louisville, Kentucky, by reason of expiration of term of service, (no objection to his being re-enlisted is known to exist.)

Said William G. Halpin was born in Meath, in the state of Ireland; is forty years of age, five feet seven inches high, florid complexion, gray eyes, dark hair, and is by occupation when enrolled a civil engineer.

Given at Louisville, Kentucky, this 14th day of January, 1865.

CHAS. H. DETCHER,
*Captain 1st U. S. Infantry, Mustering Officer, (A. G. O., No. 99.)*
M. C. TAYLOR,
*Colonel Commanding Regiment.*

JUNE 26, 1868.

A true copy.

P. O'BEIRNE,
195 *Broadway, New York.*

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## *Mr. Moran to Mr. Seward.*

No. 75.] LEGATION OF THE UNITED STATES,
*London, July* 18, 1868.

SIR: I transmit herewith a copy of the Times of yesterday, containing a report of the remarks of Mr. Forster and Lord Stanley in the House of Commons on Thursday evening, on the subject of naturalization and expatriation. Of late there have been some indications of uneasiness on this question in the public mind, and I infer, from circumstances that have come to my notice, that Mr. Forster's inquiry was intended to afford his lordship an opportunity of making the nation acquainted with the views of the government on the subject, and with its reasons for not negotiating a treaty now. It will be observed that his lordship refers to a dispatch of his to Mr. Thornton touching the question, not yet published, but which he has promised to lay before the house. I shall not fail to forward copies of this paper as soon as I can procure them, although it is probable that Mr. Thornton has already communicated it to you.

Mr. Mill, the same evening, put a question to Lord Mayo respecting the cases of Messrs. Warren and Costello. I have the honor to forward herewith a report of his lordship's reply.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[From the London Times, July 17, 1869.]

## NATURALIZATION AND EXPATRIATION.

HOUSE OF COMMONS, *Thursday, July* 16.

Mr. W. E. Forster asked the secretary of state for foreign affairs whether there had been any recent correspondence between her Majesty's government and the government of the United States on the question of naturalization and expatriation, and, if so, whether he was willing to lay such correspondence upon the table of the house.

Lord STANLEY. The house will probably have seen in some English newspapers the dispatch from the United States government upon this subject, to which the question of the honorable members refers. That dispatch was placed in my hands a few days ago, and it appears to have been made public in America before it reached this country. Before it came into my hands, I had written to the British minister at Washington upon the subject—a dispatch which must have crossed that of Mr. Seward on its way to this country. In that dispatch I explained the views of her Majesty's government upon the question of naturalization as it now stands. In answer to the honorable member's question I may say that I have no objection to lay that dispatch, as well as that of Mr. Seward, upon the table. I may also repeat, what I have already stated in answer to a question put to me in this house, that her Majesty's government are quite prepared to accept in principle the views of the naturalization question for which the United States government contend, and, therefore, I do not apprehend that any misunderstanding can arise out of it. We have declined, however, to enter into any treaty upon the subject just at present, for two reasons—firstly, because some legal details have to be arranged, and are now being considered by the commission appointed for that purpose; and next, because even if we were to act irrespectively of the report of that commission, such a treaty would be perfectly useless until an act of Parliament is passed to bring it into operation. I need not say that in the state of business, not only as it is now but as it has been for the past month, it would have been useless to attempt to bring in so large and important a measure. If it should be my fortune to have any share in the government next year, I shall be ready to introduce a bill upon the subject in the new Parliament. [Hear, hear.]

### THE CREW OF THE JACMEL.

Mr. Mill asked the chief secretary for Ireland whether her Majesty's government would take into favorable consideration the question whether the time had arrived when the very heavy sentences passed on Warren and Costello, the only two persons of the crew of the Jackmel who had not been released, might be remitted or mitigated.

The Earl of Mayo said some misapprehension appeared to exist upon this subject. The prisoners were convicted of coming to Ireland in an armed vessel and cruising along the coast, with intent to effect a landing of men and arms in order to raise an insurrection against the Queen. The only evidence given against them of their proceedings in the United States was that of their being members of the Fenian brotherhood previous to March, 1867, being the date of the overt acts in which their brother conspirators were engaged. This evidence was necessary to connect them with the Fenian society, and, in accordance with the provisions of the treason-felony act, to bring them within the jurisdiction of the court. The case, therefore, did not really differ in any way from the great bulk of the Fenian prisoners, and he was afraid that the time had not yet come when any general consideration of the sentences passed on Fenian prisoners could yet be undertaken.

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## *Mr. Seward to Mr. Johnson.*

No. 2.] DEPARTMENT OF STATE,
*Washington July* 20, 1868.

SIR: It is a truism that commercial and industrial interests continually exert a powerful influence in favor of peace and friendship between the government and people of the United States and Great Britain. Intimate consanguinity, together with a nearly entire community of language and a very considerable community of political and religious principles, ideas, and sentiments, work in the same direction. On all occasions when the moral sentiment of mankind is moved in favor of national regeneration or other political reform in any part of the world,

a very cordial sympathy and regard to such advances in civilization is found to exist between the two countries. This mutual, friendly disposition between the two nations manifests itself more strongly now than at any former period. Nevertheless, there are some controversies which have heretofore unavoidably arisen out of difference of administration in the two governments—controversies which are of lasting importance, and which have become chronic in their character. An urgent necessity exists for the settlement of one or more of them. A reference to the records of the legation in London will disclose them, and explain the circumstances which have hitherto prevented their adjustment, notwithstanding the great zeal and efficiency with which your distinguished predecessor, Mr. Adams, has carried out the instructions of this department.

The so-called naturalization question is the one which first and most urgently requires attention. The political institutions of the United States may in one sense be said to have for their foundation the principle of the right of individual men in any country, who are neither accused nor convicted of crime, to change their homes and allegiance according to the dictates of their own judgments and consciences and the inspiration of their individual desires for liberty and happiness.

On the contrary, the British government have always held in theory, and still adhere to the principle, that native allegiance to the British Crown is indefeasible without the express consent of the sovereign. A practical application of this ancient theory in cases of belligerent right of search was, as you are well aware, one of the principal causes of the war of 1812 between the United States and Great Britain. Without reaching a formal decision in the treaty of peace, the question was suffered to fall into abeyance, and, until quite recently, it seemed to have become obsolete.

Chronic political disaffection in Ireland has survived all the pacifying efforts of administration in Great Britain, of whatever kind. It frequently manifests itself there in turbulence and insurrection. Recently those discontents have been so great that Parliament has made new penal enactments, and has kept the *habeas corpus* suspended in Ireland for a period which has now reached the duration of two years and five months. On the other hand, a great and continuous emigration, which has removed large masses of its population to the United States, has seemed to abate the forces of popular resistance to the authority of Great Britain in that country. The large masses of population thus received into the United States from Ireland, with their descendants, constitute no inconsiderable part of our own population in every State and Territory of the American republic. Most of the Irish immigrants and their descendants have availed themselves of our naturalization laws, and have thus become citizens. While the new interests which they have thus acquired as citizens of the United States are paramount, they retain strong feelings and sentiments of attachment to their native country, or at least of sympathy in its interest and welfare—so true it is that those who remove from one country to another do not, with a change of skies, altogether change their native dispositions. It happens, therefore, that every considerable surge of popular discontent that disturbs the peace of Great Britain affects that portion of our people who have derived their descent from Ireland, and this emotion, in no inconsiderable degree, affects by sympathy the whole population of the United States.

Great Britain is understood to acknowledge that this government maintains its neutrality in this trial with due decision and energy. The

maintenance of this neutrality, however, is attended with so much difficulty and inconvenience as to entitle us to the exercise of a corresponding justice and liberality on the part of Great Britain. As naturalized citizens of the United States, Irishmen and their descendants have a right to visit Great Britain, and to be safe in their persons and property there so long as they practice due submission to the authority of Great Britain, the same as native citizens of the United States. When, however, a naturalized citizen of Irish birth or descent, transiently visiting Great Britain, is arrested or questioned under the acts suspending the *habeas corpus*, or by warrant or other form of complaint in judicial proceedings, and thereupon claims the rights of citizens of the United States, he is met in the courts of that country with a denial of the validity of his naturalization, and with the assertion that his allegiance to the sovereign of Great Britain continues unbroken. This theory is especially maintained in judicial tribunals in that country, first, as a ground for denying to the naturalized citizen of Irish birth or extraction a trial by jury *de mediatate linguæ*, which is extended by statute to all foreigners; and also by the pretense that he is especially amenable in British courts for political opinions and conduct maintained or pursued while in the United States, the land of his adoption.

It ought not to have been at any time a matter of surprise to her Majesty's government that these invidious discriminations in British tribunals between two classes of citizens of the United States, who stand upon one common platform under our own laws, continually engenders suspicion of prejudice and injustice. If these suspicions are suffered to continue and increase with the progress of political agitation in Great Britain, it must sooner or later result in an extensive and profound alienation of the two countries.

The President has frequently and urgently appealed to the British government to remove the cause of embarrassment which I have described —an embarrassment which, on the one hand, is productive of no conceivable benefit to the British nation, while, on the other, it hinders all attempts to retain in the United States sentiments of cordiality and friendship towards Great Britain.

The British government announces to us that it is disposed to remove this embarrassment by accepting the principle of the validity of our laws of naturalization in regard to British subjects. This announcement is gratifying to the United States; but the delay which the British government makes in carrying the purpose into effect leaves our relations even in a worse condition than before. It is manifest that the purpose can be carried into effect only by some act of Parliament or by a negotiation between the two countries. Parliament does not enact the necessary law, nor has the executive government, on the other hand, thus far been willing to negotiate the necessary treaty. Her Majesty's government is understood to be diligently engaged in examining the subject, with a view to determine the proper details for an enactment or treaty. While the United States cannot object that such an examination is necessary, they are embarrassed by the procrastination with which it is conducted.

You will address yourself to this as the most important question requiring attention on your arrival in London. You will frankly state to Lord Stanley that, until this difficulty shall be removed, it is believed by the President that any attempt to settle any of the existing controversies between the two countries would be unavailing, and therefore inexpedient.

If her Majesty's government should conclude to negotiate a naturali-

zation treaty, the treaties which have been recently celebrated between the United States and North Germany, the United States and Bavaria, and the United States and Wurtemberg, furnish the basis upon which this government would be ready to adjust the controversy.

Secondly. In case her Majesty's government shall adopt the required measures to adjust the naturalization question, you will next be expected to give your attention to the adjustment of the northwest boundary controversy, which involves the right of national dominion and property over the island of San Juan, on the frontier line between the United States and British Columbia. It is understood that on the breaking out of the recent civil war in the United States this boundary question was on the eve of being arranged, by referring it to an impartial and friendly arbiter. The question is increasing in urgency with the growing settlement and population of the northwest, and with the multiplication of causes of litigation within the disputed territory. The United States still remain in a disposition favorable to the process of adjustment originally contemplated.

Thirdly. If you shall find reason to expect that the British government will be prepared to adjust the two questions already mentioned in some such manner as has been proposed, and satisfactory to both parties, you will then be expected to advert to the subject of mutual claims of citizens and subjects of the two countries against the government of each other respectively.

The difficulty in this respect has arisen out of our claims which are known and described in general terms as the Alabama claims. In the first place, her Majesty's government not only denied all national obligation to indemnify citizens of the United States for these claims, but even refused to entertain them for discussion. Subsequently her Majesty's government, upon reconsideration, proposed to entertain them for the purpose of referring them to arbitration, but insisted upon making them the subject of special reference, excluding from the arbitrator's consideration certain grounds which the United States deem material to a just and fair determination of the merits of the claims. The United States declined this special exception and exclusion, and thus the proposed arbitration has failed.

It seems to the President that an adjustment might now be reached without formally reviewing former discussions. A joint commission might be agreed upon for the adjustment of all claims of citizens of the United States against the British government, and of all claims of subjects of Great Britain against the United States, upon the model of the joint commission of February 8, 1853, which commission was conducted with so much fairness and settled so satisfactorily all the controversies which had arisen between the United States and Great Britain, from the peace of Ghent, 1814, until the date of the sitting of the convention.

While you are not authorized to commit this government distinctly by such a proposition, you may sound Lord Stanley upon the subject after you shall have obtained satisfactory assurances that the two more urgent controversies previously mentioned can be put under process of adjustment in the manner which I have indicated.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

*Mr. Moran to Mr. Seward.*

No. 78.] LEGATION OF THE UNITED STATES,
*London, July* 25, 1868.

SIR: I have lately received a note from Mr. Morrish, the governor of the convict prison at Millbank, in this place, inclosing, at the request of Colonel John Warren, an order to enable me, J. F. Maguire, esq., M. P., and Colonel F. Anderson, of New York, to visit him there at our convenience, and asking me to communicate on the subject with the gentlemen above named. This I did privately. Colonel Anderson declined to attend; Mr. Maguire expressed his readiness to go, although he had no acquaintance with Colonel Warren, and could not very well understand why he should be sent for. As the practice of the legation in such cases has always been to ask the consuls to appoint some one in their offices to pay these visits, I requested Mr. Morse to be so good as to send Mr. Nunn, his deputy consul, in my place, to which proposal he at once assented.

Mr. Nunn and Mr. Maguire accordingly saw Colonel Warren, in the presence of the governor, on Wednesday last, for about 20 minutes. He appeared to be under the impression that the United States Senate, as well as the House of Representatives, had passed a resolution instructing the President to effect his early release. But he was told what the real state of the case was, and that the government was using all proper measures to serve him. This fact he was gratified to receive from a reliable source, although impatient at his detention. Next to learning what was being done for his release, his object in asking the interview seemed to be the very natural one of a person in his position, of having an opportunity, however brief, of conversing with persons from the outer world.

In view of the interest felt at home in Colonel Warren's case, I have thought it proper to mention this incident to you, although it is not very important in itself.

I have the honor to be, sir, your obedient servant,
BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Moran to Mr. Seward.*

No. 80.] LEGATION OF THE UNITED STATES,
*London, July* 29, 1868.

SIR: I have the honor to forward herewith a copy of the *Times* of yesterday, in which I have marked a report of a brief speech made by Lord Stanley in the House of Commons on Monday regarding the present state of the relations between Great Britain and Mexico.

I have the honor to be, sir, your obedient servant,
BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[From the London Times, July 28, 1868.]

HOUSE OF COMMONS, *Monday, July 27.*

## THE REPUBLIC OF MEXICO.

Mr. Kinglake asked the secretary of state for foreign affairs what obstacles now impeded the establishment of diplomatic relations between this country and the republic of Mexico.

Lord STANLEY. The relations at present existing between England and Mexico are not of a satisfactory character. We have no diplomatic intercourse with that republic, and, consequently, we have no direct means of affording that protection which we should wish to give to British subjects resident in Mexico. But I wish to point out—though I think I stated it before in this house—that, though this state of things is one which her Majesty's government regret, it is not their doing. The fact is that the present government of Mexico, acting, as I venture to think, not very wisely, but acting, no doubt, within their right, chose to consider the recognition by England of the Mexican empire an act of hostility against the Mexican republic, which, they contend, was the only legitimate government ever in existence, though, of course, during the time of the government of the empire it must have been in abeyance. They therefore thought fit to break off diplomatic relations with this country. We cannot deny their right to have done that. Neither do I think it would be—I will not say suitable to the dignity, but consistent with the self-respect of this country, they having taken that step, that we should ask them to reconsider it and admit us to friendly intercourse. (Hear, hear.) All I can say is that whenever they may think it right to take what I will venture to call a more rational view, and show a wish to make up this difference, they will not find any difficulty in the way of a reconciliation on our part. (Hear, hear.) But I think the offer ought to come from them, and not from us. (Cheers.)

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## *Mr. Moran to Mr. Seward.*

No. 82.] LEGATION OF THE UNITED STATES,
*London, July 29*, 1868.

SIR: News reached London by the cable, on Tuesday, of the passage through both houses of Congress, in a modified form, of Mr. Banks's bill for the protection of naturalized citizens abroad. The proceeding has been commented upon in the leading newspapers of London, and I have the honor to inclose herewith the articles upon it which appeared in the *Times* and *Morning Post* of to-day. Both journals concede the right of expatriation. The *Times*, it will be noticed, hints at the possible repeal of the statutes granting juries *de mediatate linguæ* as a simple way of getting rid of what is now regarded by many as a difficulty. That such a step will be recommended by the House of Commons commission on the question of naturalization, now sitting, is almost certain.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, July 29, 1868.]

The passing by the two houses of Congress of the bill for the protection of naturalized American citizens abroad will not take any one by surprise. The capture, trial, and punishment of several Irishmen, who, having lived some time in America, returned for the purpose of exciting a rebellion in their native country, have naturally made some stir in the States. The foreign-born citizens are sensitive on the subject of their acquired rights, and the native-born have the ordinary patriotic feeling concerning the power of their country to defend all who belong to it. The jealousy which is always latent between nations, and which can hardly be said to be latent in the disposition of Americans towards England, has been in this case skillfully instigated by politicians. First come the Fenians themselves, whose single desire, in their action on American

politics, is to provoke a breach with England. While they try to the utmost the forbearance of this country, while they violate the law of nations and of the Union, by projects of armed invasion devised and executed on American soil, they lose no opportunity of representing their agents as American citizens condemned by British courts on the ground that they are still British subjects, and as now undergoing punishment for acts done beyond the limits of the British empire. The Irish vote is powerful, and neither party in the republic can afford to disregard it. Political men in America have therefore acted as if they believed that the Fenian representations gave an accurate view of what has passed in Ireland. A great deal of indignation has been expressed at the supposed violation by the English government of the rights of American citizens, and both parties have taken up the matter with an appearance of earnest, furthered no doubt by the necessities of the coming election for President. In the democratic platform a paragraph is devoted to the assertion of—

"Equal rights, and protection for naturalized and native-born citizens at home and abroad, * * * and the maintenance of the rights of naturalized citizens against the absolute doctrine of immutable allegiance, and the claims of foreign powers to punish them for alleged crime committed beyond their jurisdiction."

At the same time the republican majority in Congress pass a bill declaring that the right of expatriation is an essential principle of the government, and enacting that—

"All naturalized citizens of the United States shall be entitled to and shall receive from this government the same protection of person and property that is accorded to native-born citizens in like situation and circumstance."

The large questions which enter into the contest between these two conflicting principles of immutable allegiance and the right of expatriation have been frequently discussed, and we do not know that anything new can be said on the subject. The conclusion to which most thinking men have come is that, whatever may be the moral tie which binds a man to the land of his birth and the institutions of his fathers, it is expedient that he should be allowed to divest himself of his allegiance when he has become actually and *bona fide* an inhabitant of another country. The old doctrine of permanent and hereditary allegiance might have been easily reduced to the absurd in any age by very probable instances of its results, but it is utterly untenable at the present time, when the political divisions of the world are broken up and whole populations are transferred across the ocean to new homes. The Irish and Germans in America, the Chinese in America and Australia, must be held to have merged themselves into the new communities, and it would be a foolish pedantry to maintain any other test of nationality than is involved in residence and citizenship. Indeed, this would in practice be admitted by any power. If Great Britain and the United States were unfortunately to be involved in war, no English officer would look upon an Irishman settled in the States as a traitor if he took up arms for his new country. There is nothing in the doctrine propounded by the American politicians that this country need deny or oppose. If Irishmen go to America they are at full liberty, so far as English opinion is concerned, to consider themselves Americans, to take out American passports, and to comport themselves as Americans, should they think fit to revisit these islands. If technically they are now held to be British subjects, this is because the old doctrines concerning nationality have not been overruled in a matter which in ordinary times is not of much practical importance. If it be thought right that, in consequence of the great displacements of population new principles shall be explicity declared, the British Parliament and people will in no way object. Provided the foreign citizenship is honest, and not adopted to evade some duty or to gain some privilege, this country will be disposed to recognize it readily in the case of any expatriated native of the empire.

What we deny, however, is that the law has been put in force to the practical injury of the American Irish, or that the American government has any just grounds of complaint against us in respect of the treatment of the captured conspirators. The inconvenience we should suffer by considering the American Irish as foreigners is the measure of the injury which they have received in the late trials. In the first place, the fact that a man is a foreigner makes no difference in the legal guilt of levying war against the Queen in her own dominions. If he be found in arms in Ireland, or plotting an outbreak, or committing any other treasonable act, he is equally guilty, whether he be a British subject or a foreigner; for though a foreigner, he owes temporary allegiance to the British Crown while he is on British soil. Substantially, therefore, the persons who have been convicted, whether we hold them to be Irish or Americans, have been justly dealt with; for they undoubtedly came of their free will to Ireland or England, and there endeavored to raise an insurrection against the established government. The form in which the doctrine of immutable allegiance appeared was the refusal of a jury *de mediatate linguæ;* for, if a prisoner could not satisfy the court that he was an American born, his claim to a mixed jury was rejected. But it must be remembered that this mode of trial is a matter of purely national regulation, and might be abolished to-morrow without giving any ground of complaint to foreign powers. The purposes for which it was instituted were probably not those by which it might be defended at the present time. It was seemingly intended in its origin rather to insure the due comprehension

of the proceedings than as the acknowledgment of a right attaching to foreigners, and in the case of Americans, who speak the same language as ourselves, the withholding of the privilege could inflict no real wrong. It is a very proper subject for consideration whether the mixed jury might not be abolished with advantage. It is by no means necessary as a means of doing justice to the alien prisoner; it is not granted to British subjects of a different race to Englishmen—a class who require it at least as much as aliens; and it, moreover, is always likely to produce such controversies as have arisen out of the late trials. If the mixed jury were abolished, the question as to the nationality of a Fenian leader would fall to the ground, for, whether a British subject or a foreigner, he would equally be liable to the penalties of treason, and would be equally tried by the ordinary jury. It is evident, therefore, that the maintenance of order would lose nothing by the admission of the right of expatriation, and that the law could reach as well as now any one who carried on treasonable practices within the British dominions.

The democratic politicians have protested against the alleged punishment of Fenians for acts done on American soil. On what instances they ground their charge we are not aware. The case of the Jacmel comes nearest to it; but even in that case it might be technically held that the vessel was brought by her crew within British jurisdiction. We suspect, however, that the Americans take exception to a proceeding which was perfectly justifiable on the part of the British government. The words and acts of several of the prisoners while in America were put in evidence at their trials, and sometimes constituted the principal testimony against them. But these acts were proved not as constituting the offense itself, but as showing the intention with which the prisoners came to the United Kingdom and committed other overt acts, for which acts alone they were convicted. The distinction is obvious to every lawyer, and, indeed, to every person of ordinary sense. It is perfectly legitimate as a means of showing the purpose with which a man is buying arms and powder in England or Ireland to prove that he was a member of a Fenian society in New York, and was deputed by his comrades to do what he has been actually detected in doing. Although it may be beyond the limits of natural justice for a nation to consider a hostile act, even when committed in a foreign country, to be rightly punishable by itself should the offender voluntarily come under its jurisdiction, yet we have no objection to admit the American principle. It must, however, be borne in mind that it will not protect even born foreigners, if, after conspiring against the British government in their own country, they come here to carry out their hostile designs.

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[From the London Morning Post, July 29, 1868.]

The question whether a natural-born subject of a state can divest himself of his allegiance to the sovereign of his native country by the process of naturalization in another state, is one which until lately failed to interest any except writers on international law. Recent events, however, have invested it with an importance, or at all events have attached to it a significance, which it is no longer possible to ignore. The Fenian conspiracy having taken its origin on the other side of the Atlantic, it followed almost in the necessity of things that several of those who were arraigned in British courts were enabled to allege with truth that at the time of the commission of the offenses with which they were charged they were naturalized citizens of the American republic, although natural-born subjects of the sovereign of this realm. Assuming such to be the case, two very material points presented themselves for consideration: first, whether the prisoners were to be considered aliens, for, if so, they were entitled, if they so desired it, to be tried by a mixed jury of natives and foreigners; and, secondly, whether they could be made amenable for overt acts of treason-felony committed out of the jurisdiction of the British tribunals. So far as the English judges were concerned, the course to be pursued was very clear. All text writers, both on our own law and on the law of nations, were unanimous in declaring that no one could divest himself of the allegiance which he owed to the sovereign of his native country, and that no political status acquired by him in a foreign state could acquit him of obligations imposed upon him at the very instant of his birth. And accordingly it was held, whenever these points were raised on behalf of English-born subjects, though naturalized Americans, that they stood in precisely the same position as if they had never left their native shores. Long, however, before Fenianism was ever thought of, the same question of international law was raised in a matter even more intimately concerning the political and personal rights of foreigners naturalized in the United States by the strict application by the European continental states of this established principle. In Prussia, for example, every citizen is obliged to devote a portion of his lifetime to the military service. Children born in Prussia, but naturalized in America, have, during temporary visits to their fatherland, been compelled to submit to this harsh law of conscription, and appeals to the American minister at Berlin have always remained without redress.

It would be needless to multiply examples. Suffice it to say that the common consent of all nations has till recently ratified the doctrine that naturalization does not extinguish native allegiance.

The soreness created in the United States by the liability of their naturalized citizens to be enrolled as soldiers in a European army was, however, as nothing compared with the irritation caused by the alleged right of English tribunals to try them by native juries, or to make them amenable for acts of hostility towards the English government committed in America. The long-standing antipathy entertained towards the mother country was enhanced by an exercise of jurisdiction which it was not difficult for stump orators to show was intended as a direct attack on the political rights of American citizens, whilst the Irish section of the American population, for reasons still more intelligible, though equally unjust, protested against anything and everything which brought their co-patriots within the reach of the English law. Obeying a pressure which became practically irresistible, and yielding to a current of popular opinion which it would have been most impolitic to oppose, both republicans and democrats joined in demanding a revision of the existing principle of international law; and it is a significant fact that the "platforms" respectively issued at Chicago and New York by the two great parties in the republic, contain clauses specially affirming the principle that a naturalized American citizen acquires the same privileges and the same immunities from foreign interference as if he had been born in the United States. On this side of the Atlantic men also began to inquire into the grounds on which the contested principle reposed, and, viewing the vast change which has been effected in international relations by the greater facilities for intercommunication which now exist, an idea sprung up that it might with propriety be greatly modified. Notes were exchanged between the governments of the European powers and that of the United States, proposals for mutual concessions were made, and the ground was, so to speak, cleared for the amicable arrangement of an inconvenient dogma of international law.

It is under these circumstances that both houses of the American Congress have thought proper to pass a measure which, in distinct terms, affirms that very principle which, if it is to be established at all, can only be so by the comity of nations. The preamble states that it is necessary for the maintenance of the public peace that the claims of foreign governments to the allegiance of naturalized American citizens should be promptly and finally disavowed; and it is then enacted that any direction or decision of any of the authorities of the United States denying or restricting the right of expatriation is inconsistent with the fundamental principles of the American government, and therefore void. A second clause declares that all naturalized citizens are entitled to the same protection from the government as those who are native born. A third clause provided that if any citizen was detained by a foreign government, on the allegation that naturalization did not dissolve his native allegiance, the President should be empowered to arrest any subject of such power in the United States; but it was subsequently struck out. Now, it is perfectly needless to point out that no state has authority to legislate for another, and that this measure, so far as it affects to tie up the hands of foreign governments, or restrict the powers exercised by foreign judges, is absolutely void. But, knowing this, as both houses of Congress must have done, it is impossible to conceive how they could have been so blinded by the desire of conciliating the mob as to pass a bill which must have the effect of delaying that settlement of an important question which every one in Europe is desirous of seeing completed. Such a law, however inoperative, must give umbrage to foreign states, whilst on the other hand it has no redeeming merit. Great allowance must be made for American politicians on the eve of a presidential election; but, then, they on their part should have some respect for the susceptibilities of states which, though not republics, at all events claim to be considered independent.

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### *Mr. Moran to Mr. Seward.*

No. 84.] LEGATION OF THE UNITED STATES,
*London, August* 1, 1868.

SIR: Parliament was prorogued yesterday afternoon until the 8th day of October next, and I now have the honor to inclose a printed copy of the Queen's speech, delivered to both houses by the lords commissioners, on the occasion. One of the most important domestic announcements in the speech is that which relates to the present state of Ireland.

This prorogation is virtually a dissolution of the present Parliament. For some time past political meetings have been held throughout the three kingdoms, and candidates brought forward for nomination to the

next Parliament under the new reform bill, and ere long the country will be in a state of excitement incident to a general election under an untried condition of things.

What is regarded as the unofficial season has fairly begun. It is announced that the Queen will leave England next Wednesday, on a visit to Switzerland, not to return until about the 1st of September. Lord Stanley will accompany her Majesty, and there will be a general dispersion of cabinet ministers, as is usual at this period of the year. Indeed, what with this proceeding on the part of high officials, and the necessity on the part of the members of the House of Commons to give their personal attention to their re-election, there is a prospect of an unusually dull official autumn in London.

As bearing upon the present state of the relations between the two countries, I have the honor to forward a report of some remarks made by the prime minister at the late dinner given to her Majesty's ministers at the Mansion House, as printed in the Times of the 30th ultimo. And I would call your attention to the resolution passed yesterday by the House of Commons, and reported in the Times of this morning, accepting from the Congress of the United States a copy of the work entitled "Tributes of the Nations to Abraham Lincoln."

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Her Majesty's most gracious speech, delivered by the lords commissioners to both houses of Parliament, on Friday, July* 31, 1868.

MY LORDS AND GENTLEMEN: I am happy to be enabled to release you from your labors, and to offer you my acknowledgments for the diligence with which you have applied yourselves to your parliamentary duties.

My relations with foreign powers remain friendly and satisfactory. I have no reason to apprehend that Europe will be exposed to the calamity of war, and my policy will continue to be directed to secure the blessings of peace.

I announced to you at the beginning of this session that I had directed an expedition to be sent to Abyssinia to liberate my envoy, and others of my subjects, detained by the ruler of that country in an unjust captivity. I feel sure that you will share in my satisfaction at the complete success which has attended that expedition. After a march of 400 miles, through a difficult and unexplored country, my troops took the strong place of Magdala, freed the captives, and vindicated the honor of my crown; and by their immediate return, without one act of oppression or needless violence, proved that the expedition had been undertaken only in obedience to the claims of humanity, and in fulfillment of the highest duties of my sovereignty.

The cessation of the long-continued efforts to promote rebellion in Ireland has for some time rendered unnecessary the exercise by the executive of exceptional powers. I rejoice to learn that no person is now detained under the provisions of the act for the suspension of the *habeas corpus*, and that no prisoner awaits trial in Ireland for an offense connected with the Fenian conspiracy.

GENTLEMEN OF THE HOUSE OF COMMONS: I have to thank you for the liberal supplies which you have voted for the public service.

MY LORDS AND GENTLEMEN: I have had much satisfaction in giving my assent to a series of measures completing the great work of the amendment of the representation of the people in Parliament, which has engaged your attention for two sessions.

I have seen with satisfaction that the time necessarily occupied by this comprehensive subject has not prevented you dealing with other questions of great public interest, and I have gladly given my sanction to bills for the better government of public schools, the regulation of railways, the amendment of the law relating to British sea fisheries, and for the acquisition and maintenance of electric telegraphs by the postmaster general; and to several important measures having for their object the improvement of the law, and of the civil and criminal procedures in Scotland.

By the appointment of a comptroller-in-chief in the war office a considerable reform in army administration has been commenced, which, by combining at home and abroad

the various departments of military supply under one authority, will conduce to greater economy and efficiency both in peace and war.

It is my intention to dissolve the present Parliament at the earliest day that will enable my people to reap the benefit of the extended system of representation which the wisdom of Parliament has provided for them. I look with entire confidence to their proving themselves worthy of the high privilege with which they have thus been invested; and I trust that, under the blessing of Divine Providence, the expression of the opinion on those great questions of public policy which have occupied the attention of Parliament and remain undecided, may tend to maintain unimpaired that civil and religious freedom which has been secured to all my subjects by the institutions and settlement of my realm.

Then a commission for proroguing the Parliament was read, after which the lord chancellor said:

MY LORDS AND GENTLEMEN: By virtue of her Majesty's commission, under the great seal, to us and other lords directed, and now read, we do, in her Majesty's name, and in obedience to her commands, prorogue this Parliament to Thursday, the 8th day of October next, to be then here holden; and this Parliament is accordingly prorogued to Thursday, the 8th day of October next.

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[From the London Times, July 30, 1868.]

*Extract from Mr. Disraeli's speech.*

In other respects, my lord mayor, I do not think that this country has any cause of complaint. If we look to our foreign relations, we see no cause for anxiety. Indeed, there is little to be said upon that subject; and the external relations of England are never in a securer or more salutary state than when there is very little to be said upon them. [Cheers.] At the present moment we have no controversy of any kind with any European power, [cheer;] and with regard to those subjects of misunderstanding which have been so much exaggerated and so much dwelt upon by our transatlantic brethren, every week, I may say every day, brings us to a better understanding upon all those questions; and I am sure their solution, which I believe is near at hand, in every respect is only what may be expected from the mutual good sense and good feeling of two great and kindred nations. [Loud cheers.]

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[From the London Times, August 1, 1868.]

## THE ASSASSINATION OF PRESIDENT LINCOLN.

HOUSE OF COMMONS, *Friday, July* 31.

The speaker communicated to the house a resolution of the United States Congress acknowledging the expression of generous sympathy, on the part of the house, at the assassination of President Lincoln and the attempted assassination of Mr. Secretary Seward.

Lord Stanley moved the following resolution: "That this house has great satisfaction in accepting the volume transmitted to it in pursuance of the resolution passed by the Congress of the United States; that they desire that the said volume be placed in their library, and that a copy of this resolution be transmitted to Mr. Secretary Seward for presentation to Congress."

The resolution was agreed to.

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## *Mr. Moran to Mr. Seward.*

[Extract.]

No. 88.] LEGATION OF THE UNITED STATES,
*London, August* 4, 1868.

SIR: On Sunday last, the 2d instant, I received a note from General J. Watson Webb, the United States minister at Rio, a copy of which I have the honor to inclose, and yesterday I sent you by the cable the

message, almost word for word, which he requests me in that letter to transmit to you.

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I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Webb to Mr. Moran.*

[Extract.]

LEGATION OF THE UNITED STATES,
*Rio de Janeiro, July* 8, 1868.

MY DEAR MORAN: I do not know whom I address in the inclosed, as I am told Mr. Adams has gone home; but I beg there may be no delay in forwarding the telegram.

My orders are precise, to demand my passports and come home, if our steamer is not permitted to pass; and I have reason to believe that the conduct of Caxias in stopping her will be approved. Of course, on receiving my telegram our government will begin preparations to force the passage of the allied lines, and will probably communicate with me through your legation.

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Your friend,

J. WATSON WEBB.

BENJAMIN MORAN, Esq., *&c., &c., &c.*

RIO, *July* 8, 1868.

The steamer Wasp has been refused permission to pass the allied lines for Mr. Washburn and family. I have demanded the censure of Caxias, and permission for the Wasp to pass. If refused, will, as instructed, demand my passports.

J. WATSON WEBB.

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*To the legation of the United States in London:*

I have the honor to request that the foregoing may be telegraphed to the Secretary of State of the United States at your earliest convenience. Doubtless by the freight line of steamers to Liverpool, on the 15th, I'll send our government further information through the legation at London.

With great respect, &c.,

J. WATSON WEBB,
*Envoy Extraordinary and Minister Plenipotentiary from the United States to Brazil.*

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*Mr. Moran to Mr. Seward.*

No. 89.]

LEGATION OF THE UNITED STATES,
*London, August* 5, 1868.

SIR: I had the honor some time since to receive from the department the 12 cases containing 357 copies of the work entitled "Tributes of the Nations to Abraham Lincoln," referred to in your dispatch No. 8, of the 2d of June, together with the letters from yourself intended to be delivered with them. Seeing from the size of the volumes that it would be necessary to send many of them by rail to their destinations in different parts of the three kingdoms, I drew up a brief circular which I caused to be addressed to the individuals and corporations for whom your letters and the books were intended, stating to each when and by what channel the volume would be sent, and saying that the replies to your notes might be committed to me for transmission to Washington.

I now have the honor to forward herewith all the acknowledgments received up to this time, together with a list of the same, and a copy of the circular which I sent out with your letters. These constitute about one-sixth of all that may be expected. The remainder shall be sent forward as rapidly as they come to hand.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of acknowledgments of receipts of "Tributes of Nations to Abraham Lincoln."*

Municipal council, Burntisland.
Herald and West Coast Advertiser, Ardrossan.
Municipal council, Warwick.
Town commissioners, Hartlepool, (2 notes.)
Chamber of Commerce, Guernsey.
Newmilus Anti-slavery Society, (2 notes.)
American Chamber of Commerce, Liverpool.
Local Board of Health, Rughley.
Municipal council, Gloucester.
Municipal council, Cardigan, (2 notes.)
Inhabitants of Wolverhampton, (2 notes.)
Municipal council, Northampton.
Editors of Spectator, London.
Commissioners of supply, Elgin.
Inhabitants of Belfast.
Sons of Temperance, Manchester.
Members of the Merchants' House, Glasgow.
Municipal council, Bridgeworth.
Chamber of Commerce, Sheffield.
The Earl of Derby.
Chamber of Commerce, Hull.
Inhabitants of Ipswich.
Local Board of Health, Heckmondwike.
Wesleyan ministers, Belfast.
Municipal council, Rothsay,
Municipal council, Pollockshaws.
Committee of deputies of the British Jews, (2 notes.)
Municipal council, Liverpool.
Financial Reform Association, Liverpool.
Municipal council, Ashton-under-lyne.
Stowbridge Union.
Editor of the Leeds Mercury.
Inhabitants of Leeds.
Municipal council, Grantham.
Municipal council, Dewsbury.
Inhabitants of Cardiff.
Municipal council, Stockton-on-Tees.
Inhabitants of Brighton.
Municipal council, Scarborough.
Cutlers' Company, Sheffield.
Municipal council, Doncaster.
Salt Chamber of Commerce, Northwich.
Inhabitants of Bournemouth, (2 notes.)
Editor of Evening Standard, London.
Vestry of the Parish of St. Luke, Chelsea.
Editors of Daily Telegraph, London, (2 notes.)
American residents, Dundee.
Lord Stratford de Radcliffe.
Temple Discussion Forum.
Editor of Daily News, London,
Vicar and St. Martin-in-the-Fields, London.
Bank of England, London.
Editor of the Times, London.
Editor of Morning Star, London.

Municipal council, London.
Covent Garden Theatrical Fund.
Bank of British Columbia, (2 notes.)
Inhabitants of Swansea.
Chamber of Commerce, Dewsbury.
Editor of the Examiner, Carlisle.
Thomas Barras, Baptist minister.
Municipal council, Millfield.
John W. Mathews, General Baptist minister.
Wednesbury Local Board of Health.
Anglesea Baptist association, Coventry.
Inhabitants of Darlington.
Inhabitants of Kingston-upon-Hull, (2 notes.)
Peterborough Improvement Commissioners, (2 notes.)
Commissioners of supply of the county of Roxbury.
Commissioners of supply, county Lanark.
House of Lords, (4 notes.)
Miss Grace W. Lees, Northampton.

*List of newspapers containing reference to the "Tributes of Nations to Abraham Lincoln."*

The Scotsman, July 31, 1868.
The Carlisle Examiner and Northern Advertiser, August 1, 1868.
The Glasgow Daily Herald, July 31, 1868.
The Evening Standard, July 28, 1868.

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LEGATION OF THE UNITED STATES,
*London, July* 23, 1868.

Mr. Moran, chargé d'affaires of the United States at London, presents his compliments to ———— ————, and has the honor to transmit herewith a letter from the Department of State at Washington city. He begs to say that the volume to which it refers will be sent through the channel named in the memorandum below.

Mr. Moran will be pleased to receive and forward to his government an acknowledgment of the reception of the letter and volume in question.

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*Mr. Moran to Mr. Seward.*

No. 90.] LEGATION OF THE UNITED STATES,
*London, August* 5, 1868.

SIR: Being anxious to act upon your dispatch No. 21, of the 16th ultimo, and bring the case of Colonel W. G. Halpin to the favorable notice of Lord Stanley before he should leave London to attend upon her Majesty during her visit to the continent, I sought and obtained an interview with his lordship to-day.

I began by saying that you had sent me a number of documents establishing Colonel Halpin's American citizenship, his services to the cause of the Union as an army officer during the rebellion, and the fact that he was not at the attack on the police station at Stepaside, in the county of Dublin, in March, 1867, for participation in which it was alleged by his friends that he had been tried, convicted, and sentenced to 15 years' penal servitude. I further said that from a source which seemed to me to be deserving of credit, I understood that the Crown solicitor confirmed this last statement. As I had been instructed to avail myself of these documents when an opportunity offered of using my good offices with her Majesty's government for the release of Colonel Halpin or the mitigation of his sentence, I would with his lordship's permission place copies of them in his hands, and request his favorable consideration of the case. He cheerfully took them, and thanked me for bringing the subject to his notice. If it should prove true that Colonel

Halpin had been unjustly convicted of being in the affair at Stepaside, his claim to release deserved attention; but his lordship added that Halpin may possibly have been tried and convicted of treason-felony, the overt acts in the indictment having been committed not at Stepaside but elsewhere. He promised to lay the papers before Lord Mayo at once, with a view to an investigation, and the favorable consideration of her Majesty's government, provided it could be shown that Colonel Halpin had been unjustly convicted as alleged by his friends. His lordship repeated that it was not the wish of the government to deal harshly with these prisoners, and I understood him to intimate that it was by no means its wish unnecessarily to prolong their confinement. As incidentally connected with the case of Colonel Halpin, I beg to call your attention to a letter from Mr. Scallan, the counsel for Warren and Costello, in the Times of yesterday, and to the editorial remarks thereon.

I have the honor to be, sir, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, August 4, 1868.]

THE JACMEL PRISONERS.

*To the Editor of the Times:*

SIR: Permit me to correct a serious error, into which you have fallen in the leader which appeared in the Times of Wednesday on the naturalization question.

Referring to the only two members of the "Jacmel expedition" convicted—my clients, Captain John Warren and Augustine E. Costello—you assert that although the acts of these prisoners while in America were put in evidence at their trials against them, these acts were not proved as constituting the offense itself, but merely as showing the intention with which the prisoners came into the United Kingdom.

Now that is not correct. Their acts while in America were not only proved, but were charged against them as forming an actual offense, distinct and separate from the charge growing out of the "Jacmel expedition."

Two questions went to the jury in each case:

1. Was the prisoner connected in America with the Fenian organization there on the 5th of March, 1867, at the time of the Fenian rising at Tallaght, in the county Dublin?

2. Was the prisoner a member of the "Jacmel expedition?"

On each trial the prisoner's alleged complicity in the March rising was supported exclusively by evidence of his acts in America; and no other evidence could by any possibility have been adduced in proof of it, because the "Jacmel expedition," according to the case made by the Crown, did not sail from New York until the 12th of April, 1867.

But what is more important is the fact that if the Crown had failed in obtaining a verdict on that part of the case they should have failed altogether, because unless some one or more of the overt acts charged against the prisoner were found by the jury to have been committed in the county of Dublin, he should have been acquitted, for otherwise the commission court sitting for the county of Dublin had no power to try him, and the only act of the kind laid in the indictment was the Tallaght rising, which occurred while the prisoner was in America.

It is therefore true that Warren and Costello were indicted, tried, and convicted for acts done in America. And, furthermore, it is true that if the naturalization law now passed by the United States legislature had been in existence at the time of their trials, and its operation recognized by the British government, their convictions would not have resulted, and to-day, instead of being consigned for a hopeless period to the horrors of penal servitude, they would be living and acting as free citizens in their adopted country.

I am, sir, your obedient servant,

JOHN T. SCALLAN.

DUBLIN, *July* 31.

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[Editorial.]

Mr. Scallan, the attorney for the prisoners, Warren and Costello, who, on coming to Ireland from the United States in the Jacmel, were tried and convicted of treason-

felony, writes to us concerning a passage in an article on the American naturalization bill which appeared on Wednesday last. Referring to the protest of the democratic party against the alleged punishment of Fenians for acts done on American soil, we observed that the case of the Jacmel came nearest to the assertion of such power, but that even in that case it might be technically held that the vessel was brought by her crew within British jurisdiction. We are now informed by Mr. Scallan, on the part of the two convicts, that they were each tried on a double charge—firstly, for having been connected with the Fenian organization in America, and having thus become accessory to the rising at Tallaght, in the county of Dublin, on the 5th of March, 1867; and secondly, for having taken part in the expedition and come to Ireland for the purpose of aiding the rebellion. Although our remarks did not apply particularly to the Jacmel case, and, indeed, rather excepted it, yet we have no objection that Mr. Scallan should refer them to that case, and if it be the fact that the prisoners were actually convicted and punished for being accessory to the attack on Tallaght, there would undoubtedly be an instance of that punishment of acts committed in a foreign country against which the Americans protest. But on looking back to the trial of the two prisoners we find the case for the prosecution was constantly directed to establish the guilt of the prisoners in respect of their hostile return to Ireland. Whatever else they might be charged with, the Jacmel expedition engaged the attention of the judges, barristers, and jury. In the trial of Warren, on the 1st of November last, we find it proved, first, that the prisoner was a member of the Fenian conspiracy in America, and had become Head Center for the State of Massachusetts. We are then at once taken to the Jackmel. We are told how, on the 12th of April, 1867, a party of 40 or 50 men, all officers or privates who had been in the American service, went on board a vessel that had been purchased for an invasion of Ireland. Of the moral guilt of the prisoners there could be no possible doubt. The party sailed without papers, or colors, or luggage, but had on board a quantity of arms of various kinds "packed in piano cases, in cases for sewing-machines, and wine casks, all consigned to some merchant in the island of Cuba." It was sworn that the arms consisted of "Spencer's repeating rifles, seven-barreled Enfields, Austrian rifles, Sharp's breech-loading rifles, and Burnside's breech-loading rifles, together with some smaller arms, a million and a half rounds of ammunition, and three pieces of unmounted cannon, which threw 3-pound shot, and were frequently fired during the passage." The whole case went to show that Warren was one of this party, and was cognizant of and participating in the evil designs. To this the evidence of the prosecution was directed; and to refute it the prisoner, who conducted his own case, used all his ability. Thus it is plain that the offense for which Warren was convicted and sentenced was a hostile invasion of this country, assuming it was made out that the vessel was brought by its crew into British waters. The evidence connecting him with the Fenian conspiracy in America was made subservient to the overt act of invading Ireland, and the sentence which he is now undergoing is the punishment of what was found at the trial to be an act committed within British jurisdiction. It may be mentioned that though the prisoner remonstrated violently against the refusal of a mixed jury, we do not find him objecting to the admission of evidence concerning his acts in America, and we must come to the conclusion that he knew the question to be simply whether or not he came in the Jacmel with a hostile intent within British jurisdiction. In the trial of Costello precisely the same features are to be noticed. The prisoner demanded a mixed jury, and it was refused. At the trial in November, Mr. Heron, his counsel, admitted that "the sole issue raised was whether Costello was on board the Fenian vessel. He admitted that if the prisoner was on board, under the circumstances stated, he would be guilty."

Thus, if even the prisoners, being British born subjects, were indicted for taking part while in America in a conspiracy of which the chief overt act was committed in Ireland before they arrived, yet it was furthermore proved beyond a doubt that this was not their only offense, but that they followed it up by actually crossing the Atlantic, and coming as rebels and with materials of war into Irish waters. So that the case is not the same as if a Fenian whose acts had been wholly confined to America had fallen by accident into the power of the British government. It is worth while to hear the ministerial account of the affair. In answer to Mr. Mill, Lord Mayo stated, a few days since, in the House of Commons, that "the prisoners were convicted of coming to Ireland in an armed vessel and cruising along the coast with intent to effect a landing of men and arms in order to raise an insurrection against the Queen." "The only evidence," he went on to say, "given against them was of their being members of the Fenian Brotherhood previous to March, 1867, being the date of the overt acts in which their brother conspirators were engaged. This evidence was necessary to connect them with the Fenian society, and, in accordance with the provisions of the treason-felony act, to bring them within the jurisdiction of the court." From this it would appear as if the conspiracy with the Tallaght affair was introduced in order to enable the commission to try the prisoners in Dublin. But they might have been tried and convicted in Sligo without any reference to Tallaght at all, and this even though they had been Americans born; so that as far as the prisoners themselves are concerned there has been no injustice done.

In this matter we have argued rather against our own sympathies; for it has been since made so doubtful whether the Jacmel was really brought within British jurisdiction, that were the matter to arise again we would rather see Warren and Costello liberated, as Nagle and the rest subsequently were. But we have felt bound to point out that the prisoners were found guilty of an offense which, under any intentional system, would be punishable by British courts. Of course, all we have said is independent of the question how far it is lawful in such a case to look upon the whole series of the prisoners' acts as one act, and also how far a nation has a moral right to punish those who have anywhere levied war against it in time of peace, if at any time the offenders should voluntarily come within its jurisdiction.

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*Mr. Moran to Mr. Seward.*

No. 93.] LEGATION OF THE UNITED STATES,
*London, August* 8, 1868.

SIR: In connection with my dispatch No. 89, I have the honor to forward a number of further acknowledgments of "The Tributes of the Nations to Abraham Lincoln," received since the 5th instant from various places in Great Britain.

I add a list of the same, and am, with great respect, your obedient servant,

BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of acknowledgments of receipts of "Tributes of Nations to Abraham Lincoln."*

Inhabitants of Barrhead.
Improvement Commissions of Huddersfield.
Municipal council, Hawick.
Improvement commissioners of Stourbridge.
Municipal council, Evesham.
Municipal council, Plymouth.
Municipal council, Burnley, (2 notes.)
Grand Master of Grand Lodge of Scotland, (2 notes.)
Inhabitants of Warrington.
Municipal council, Nottingham.
Municipal council, Dumfermline.
Municipal council, Leith.
Chamber of Commerce, Leith, (2 notes.)
Municipal council, Edinburgh.
Municipal council, Manchester, (2 notes.)
Municipal council, Winchester.
Municipal council, Oldham, (2 notes.)
Inhabitants of Great Bardfield.
Municipal council, Hartlepool.
Municipal council, Berwick-upon-Tweed.
Inhabitants of Wakefield, (2 notes.)
Municipal council, Hereford.
Municipal council, Salford.
Municipal council, Yeovil.
Municipal council, Walsall, (2 notes,)
Municipal council, Kilmarnock.
Municipal council, Bristol.
Municipal council, Dover.
Workingmen's Christian Institute.
Chamber of Commerce, Manchester.
Municipal council, Stratford-upon-Avon.
Municipal council, Birmingham, (2 notes.)
Corporation of Bedford.
Inhabitants of Southport.
Municipal council of York.

Municipal council, Newport, Isle of Wight, (2 notes.)
Municipal council, Canterbury.
Municipal council, Newark, (2 notes.)
Municipal council, Chester.
House of Commons, (3 notes.)
Inhabitants of St. Helens, (2 notes.)
Luton Local Board of Health.
Municipal council, Colchester.
Methodist Free Church, Nottingham.
Municipal council, Paisley, (2 notes.)
Chamber of Commerce, Edinburgh, (2 notes.)
Municipal council, Perth, (2 notes.)

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*Mr. Moran to Mr. Seward.*

No. 98.] LEGATION OF THE UNITED STATES,
*London, August* 12, 1868.

SIR: Referring to my dispatch No. 93, of the 8th instant, I have the honor to transmit herewith further letters acknowledging the receipt of copies of "The Tributes of the Nations to Abraham Lincoln," together with a list of the same.

I have the honor to be, sir, your obedient servant,
BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of acknowledgments of receipts of "Tributes of Nations to Abraham Lincoln."*

Municipal council, Kidderminster, (2 notes.)
Municipal council, Neath.
Board of Guardians of the Sligo-Union.
Municipal council, King's Lynn.
Inhabitants of Staplehurst.
Chamber of Commerce, Glasgow.
Methodist New Connection, Sheffield.
Municipal council, Huntingdon,
Municipal council, Halifax.
Renfrewshire Independent, (2 notes,) and copy of paper—August 8, 1868.
Cutlers' Company, Sheffield.
Inhabitants of Devizes.
Municipal council, Hastings.
Inhabitants of Bridlington.
Municipal council, Deal.
Inhabitants of Ramsgate, (2 notes.)
Municipal council, Scarborough.
Union and Emancipation Society, Hawick.
Working classes, Ipswich, (2 notes.)
Municipal council, Dumbarton.
Municipal council, Lymington.
Working men, Hinton Martell.
Municipal council, Ashton-under-Lyne.
Welsh Baptist Association, (2 notes.)
Municipal council, Kendall, (2 notes.)
Cramlington local board.
Municipal council, Tynemouth, (2 notes.)
Municipal council, Bath.
Commissioners of supply of the county of Fife, (2 notes.)
Municipal council, Margate.
Municipal council, Dorchester.
Municipal council, Selkirk.
Improvement Commissioners of the town of Bury.

*Mr. Moran to Mr. Seward.*

No. 100.] LEGATION OF THE UNITED STATES,
*London, August* 17, 1868.

SIR: In connection with my dispatches numbered 89 and 98, I have now the honor to transmit a number of letters and resolutions from various corporations and individuals in these kingdoms, acknowledging the receipt of copies of the work entitled "Tributes of the Nations to Abraham Lincoln," all of which have come to hand within a few days.

I add a list of these communications, and am your obedient servant,
BENJAMIN MORAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of acknowledgments of "Tributes to the Memory of Abraham Lincoln."*

Town council of Macclesfield.
Town council of Gateshead.
Holmfirth Chamber of Commerce.
Local Board of Health, Heckmondwike.
Mayor, &c., of Southport.
Town council of Greenock.
Municipal council of Brechin.
Chamber of Commerce, Liverpool.
Emancipation Society, Ashton-under-Lyne.
Town council of Bridport, (2 notes.)
The Ryde commissioners.
Mayor of Woodstock.
Municipal council of Bolton.
Municipal council of Rothesay.
Corporation of Shrewsbury.
City of Aberdeen.
Municipal council, Hanley, Staffordshire.
City of Cambridge.
Methodist minister, Londonderry, (2 notes.)
Town council of Liverpool, (2 notes.)
Commissioners of Supply Company, Selkirk.
City of Exeter.
Borough of Southampton.
Municipal council, Newcastle-under-Lyme.
Town council of Maidstone, (2 notes.)
Town council of Arbroath, (2 notes.)
Town council of Wigan, (2 notes.)
Borough of Derby.
Bodleian Library, Oxford.
Vice-chancellor of University of Oxford.
Borough of Swansea.
Town of Lanark.
Wesleyan minister, Portadown, Ireland, (2 notes.)
Sons of Temperance, Manchester.
Municipal council, Messelburgh, (2 notes.)
Municipal council of Burntisland, (3 notes.)
Borough of Leeds, (2 notes.)
Corporation of Cork, Ireland.
Borough of Dewsbury.
Parish of St. Pancras, London, (3 notes.)
Right Hon. Benjamin Disraeli.
Borough of Sheffield, (2 notes.)
Municipal council of Dumfries.
Corporation of Lincoln.
Local Board of Surveyors, Pudsey, near Leeds.
Town commissioners of West Hartlepool.
City of Rochester, (2 notes.)
Council of the Borough of Warwick, (2 notes.)

Selby Local Board of Health.
Cotton Brokers' Association, Liverpool.
Town council of Ipswich.
Municipal council of Falkirk.

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*Mr. Seward to Mr. Johnson.*

No. 6.] DEPARTMENT OF STATE,
*Washington, August* 25, 1868.

SIR: Mr. Moran's dispatch of the 4th of August, No. 88, concerning affairs in Brazil, is received, and his proceedings are approved.

I give you herewith a copy of an instruction for Mr. Webb, which goes by cable to-day.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, August* 25, 1868.

Inform Webb at Rio that instructions to him were sent yesterday by United States mail steamship from New York to Rio. His demand for permission for the Wasp to go for Washburn is approved, but his demand for passport must be suspended until further directions, which will go by the same mail steamer, September 23d.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

No. 1.] LEGATION OF THE UNITED STATES,
*London, August* 29, 1868.

SIR: On the 18th instant I addressed an official note to Lord Stanley, inclosing a copy of my credentials, and requesting him to inform me on what day her Majesty, the Queen, could honor me with an audience to enable me to present the original.

His lordship being with the Queen on a visit to the continent, my letter was forwarded to him, and in his answer, dated the 21st, he informs me "that on the return of her Majesty to England" he will "not fail to take her Majesty's pleasure as to the time at which her Majesty will grant me an audience."

It is said (though I have not been officially advised of it) that her Majesty will return about the third week of the next month; and in a few days thereafter, I have no doubt that I shall be favored with an audience.

I have been, by invitation, on a visit this week to the prime minister, at his country seat, Hughenden Manor, Buckinghamshire, where, besides making his acquaintance, I made that of the lord chancellor, and some

other members of the House of Lords. Although nothing of a political character was discussed, the friendly feeling expressed for our government gives me reason to believe that the matters which now embarrass our relations will soon be satisfactorily adjusted.

I have the honor to remain, with regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 4.] LEGATION OF THE UNITED STATES,
*London, August* 29, 1868.

SIR: I have the honor to forward herewith three copies of the recent correspondence between the United States and Great Britain on the question of a treaty on the subject of naturalization, and likewise respecting the imprisonment of Messrs. Warren and Costello, which have just been issued for the use of Parliament.

I have the honor to be, sir, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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## CORRESPONDENCE WITH THE UNITED STATES RESPECTING THE IMPRISONMENT OF MESSRS. WARREN AND COSTELLO.

### No. 1.

*Lord Stanley to Mr. Thornton.*

FOREIGN OFFICE, *June* 16, 1868.

SIR: The United States chargé d'affaires has inquired of me, by direction of Mr. Seward, whether her Majesty's government were prepared at once to enter into a treaty with the United States on the subject of naturalization.

I reminded Mr. Moran, in reply, of the statements which some weeks ago I made in the House of Commons, and which were received, as I believed, with general approval, that her Majesty's government were prepared to entertain in principle the question of a naturalization treaty, and no longer held to the doctrine of indefeasible allegiance.

But, I observed to Mr. Moran, that with every good disposition on their part to contribute to setting at rest a question which, as it now stood, was calculated to interfere with the maintenance of good understanding between this country and the United States, her Majesty's government found it was inexpedient, not to say impossible, to proceed hastily in a matter which involved points of great legal difficulty, and might affect the interests not only of persons now in being, but of persons still unborn. It was necessary, therefore, to consider how British law bore on the question, and the similarity between the laws of the two countries need scarcely be insisted upon in support of the statement that there are many legal points to be considered and determined before either a treaty can be concluded, or legislation attempted by this country.

Her Majesty's government, I said, have lost no time in seeking to elucidate the questions to be considered. A royal commission, composed of very eminent persons, had been appointed, and were now engaged in investigating those questions; it was impossible to say how long the inquiry would take, but even apart from the question of the inexpediency of anticipating the report of the commissioners, I thought it right to remark that, in the actual state of public affairs in Parliament, and considering the general anxiety felt to restrict legislation to what was absolutely required with a view to an early dissolution, it would be impracticable, even if the report of the commission had been agreed upon and published, to introduce into the House of Commons, with any chance of its immediately becoming law, a bill for giving effect to the recommendations of that report. It could not be expected to pass without much discussion, and for this there was not now time.

It seemed to me, therefore, inevitable that legislation on the subject must be deferred till the meeting of the new Parliament, and, as the treaty must be made dependent on such legislation, it was useless to conclude it at once.

I am, &c.,

STANLEY.

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No. 2.

See Mr. Seward to Mr. Moran, No. 14, June 22, 1868, with inclosure.

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No. 3.

See correspondence with British legation, Lord Stanley to Mr. Thornton, No. 157, July 28, 1868.

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*Mr. Seward to Mr. Johnson.*

No. 12.] DEPARTMENT OF STATE,
*Washington, September* 3, 1868.

SIR: I give you herewith an extract from a dispatch* which has been received from Mr. Van Valkenburgh, United States minister at Japan, of the date of the 14th of June.

Mr. Van Valkenburgh mentions the fact that southern troops are being conveyed in English steamers to the seat of war in Japan, where a great anxiety for re-enforcements is manifested by the chief officers of the Mikado's government; and that Mr. Van Valkenburgh has called the British minister's attention to this violation of his neutrality proclamation, but as yet no action appeared to have been taken by him. It appears in the same paper that Mr. Van Valkenburgh takes effectual care to prevent a similar violation of neutrality by United States merchant vessels.

In bringing these facts to the notice of her Majesty's government, I think it necessary to state that Mr. Van Valkenburgh's communication contains no expression of complaint or of distrust or of unkindness in respect to the British minister. No such sentiment is indulged by this department. The interests of all the treaty powers in regard to the maintenance of neutrality in Japan are regarded as identical here, as I am quite sure they are regarded in London. Hitherto their representatives have concurred in a policy of neutrality with wonderful unanimity. What is desired is that the harmony which has prevailed in their councils may be continued to the end of the civil war.

I will thank you to give a copy of this dispatch, and of the extract from Mr. Van Valkenburgh's dispatch, to Lord Stanley, confidentially, for the use of his government. In doing so, you will say to him that if he shall think it proper to make inquiries on the subject in Japan it will be pleasant for us if such inquiries can properly be made without reference to Mr. Van Valkenburgh's dispatch.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

* For this inclosure see dispatch No. 59, of June 14, from the United States minister to Japan.

*Mr. Johnson to Mr. Seward.*

No. 14.] LEGATION OF THE UNITED STATES,
*London, September* 12, 1868.

SIR: Lord Stanley returned from the continent on Sunday last, and on the 8th instant addressed to me a letter announcing the fact, and saying "that he would have much pleasure in receiving me whenever I might desire to have any personal communication with him on the affairs of my government."

In consequence of this I had an interview with him at the foreign office on Thursday, the 10th instant. The interview lasted from half to three quarters of an hour, and was entirely satisfactory to me, as, on leaving him, he assured me it was to him.

I of course entered into no particulars in relation to the subjects in dispute, but spoke of them in general and frank terms, to which he replied in like manner. I informed him that before entering into negotiation in relation to other subjects of difference between the two governments, I was instructed to arrange the naturalization question. He gave me very clearly to understand that there would be no difficulty in coming to a satisfactory arrangement; but added that in order to meet the legal consequences of an entire change of allegiance of a subject of her Majesty, it might be found necessary to have some legislation by Parliament upon the subject. Should this continue to be his opinion, it will delay the arrangement some two or three months, or longer, and this, if possible, should be avoided. It will be my effort, therefore, to satisfy him that such legislation is not necessary, and I do not despair of accomplishing it.

In relation to the other two matters mentioned in my instructions, I am convinced there will be no serious difficulty. Although I did not propose an arbitration in relation to the San Juan affair, or a commission in relation to the Alabama claims, I am convinced, from what he said on both points, that these modes of settlement can be attained. I submit to you, however, the policy of authorizing me to arrange the two last before the first is settled, provided the delay in that settlement shall be as great as it will be if it is made to depend upon the action of Parliament, and provided I shall be convinced that a satisfactory arrangement will be made.

I also mentioned to him the cases of Warren and Costello, and urged upon him their release. He received the suggestion, I thought, quite favorably, although he said there were difficulties in the way. My conclusion, from all that he said, is that they will in a comparatively short time be released.

He informed me that her Majesty the Queen would give me an audience on Monday next, for the presentation of my letter of credence.

I have the honor to remain, with high regard, your obedient servant,
REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

No. 15.] DEPARTMENT OF STATE,
*Washington, September* 14, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 29th of August, No. 1.

Your proceedings in asking for a royal audience to present your credentials are approved.

The account which you give me of your visit to the prime minister, and of your having become acquainted with the lord chancellor, is pleasing. The President sincerely hopes that the favorable expectations you indulge concerning the success of your mission may be realized.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

No. 16.] DEPARTMENT OF STATE,
*Washington, September* 14, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 29th of August, No. 4, with its accompaniment, namely, three copies of a correspondence, which was recently submitted to Parliament, between the United States and Great Britain concerning the treaty on the subject of naturalization, and likewise concerning the imprisonment of Messrs. Warren and Costello.

The explanations given by Lord Stanley may have satisfied Parliament concerning the judicial severity maintained by the British government in the case of Warren and Costello; they are, however, by no means satisfactory to the people of the United States.

It is not easy to see what advantages the government and people of Great Britain derive from that indulgence that is not counterbalanced by continued irritation on the part of a friendly nation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

No. 15.] LEGATION OF THE UNITED STATES,
*London, September* 15, 1868.

SIR: As I advised you, in my dispatch No. 14 of the 12th instant, would be the case, the Queen granted me an audience yesterday at Windsor Castle. I was accompanied by Lord Stanley, the principal secretary of state for foreign affairs, who presented me to her Majesty. She received me cordially and I addressed her as follows:

"May it please your Majesty, I am the bearer of a letter from the President of the United States to your Majesty accrediting me to your Majesty's government as envoy extraordinary and minister plenipotentiary of the United States. In presenting it, I am instructed to assure you of the amicable feeling entertained by my government towards the government of your Majesty, and of the high esteem in which you are personally held by the citizens of the United States. I am also instructed (and the duty will be most gladly undertaken) to do whatever may be necessary, having regard to the rights and honor of both nations, not only to maintain but to strengthen the friendly relations which have so long and happily existed between them. And if (as I am persuaded will be the case) my efforts are met in a corresponding spirit by your

Majesty's government, I do not doubt that the few causes which have for a time somewhat disturbed those relations will soon be removed and they be placed on a more firm and enduring basis than ever. Such a result will not only promote the interest of both countries and subserve the cause of free government, but fulfill the requirements of an enlightened humanity. I now most respectfully beg leave to have the honor to place in your Majesty's hands my letter of credence."

On receiving the letter, her Majesty replied in very friendly terms, saying that she reciprocated all that I had said in relation to the friendship between the two nations; inquired kindly after the President, and expressed her gratification at my being the representative of my government at her court. The interview then terminated.

It not being the practice here to publish what is said by the minister or her Majesty on such occasions, neither my address nor her short reply will appear either literally or in substance.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

No. 18.] DEPARTMENT OF STATE,
*Washington, September* 17, 1868.

SIR: I inclose a copy of an instruction of the 8th instant to Mr. J. Ross Browne, United States minister at Peking, relative to a contemplated revision of the tariff and revenue parts of our former treaty with China.

This paper is furnished you, as is indicated therein, with a view to its being used, if necessary, in preserving and maintaining a good understanding with the British government in regard to the important subjects to which it relates.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

No. 19.] DEPARTMENT OF STATE,
*Washington, September* 23, 1868.

SIR: Mr. West, United States consul at Dublin, writes me that he has sent to Mr. Moran, for the use of your legation, a printed report of the trial of W. G. Halpin for treason and felony in 1867.

I beg leave to direct your attention to the 7th, 8th, 9th, and 10th pages of that report. They contain a distinct assertion by the British judge who presided on that trial, that although the prisoner had been naturalized in the United States of America, yet if it was also a fact that he was born in Great Britain, that then, and in that case, he still remains a subject of the Crown of Great Britain and Ireland, and so he would not be entitled to the benefit of the law which allows a "jury *de mediatate linguæ*" to the native born American citizen as a foreigner in Great Britain. It thus distinctly appears that a naturalized citizen of the United States is

denied an equal participation with the native-born citizen of the United States in the benefits of a British act of Parliament.

I have supposed that it might be useful to you, in your debates with Lord Stanley, to show him how the doctrine of the indefeasibility of British allegiance is asserted in courts on the trial of naturalized American citizens. You will be at no loss in showing him how formidable a weapon this seeming legal abstraction is in the hands of political debaters in the United States, and how such debaters sometimes use that weapon to alienate the two countries.

I am satisfied that the people of the two nations might have remained in good social bonds since the war of 1812 if the British government had then given up the theory of the indefeasibility of allegiance, a theory which has long since been found impracticable, and which is now coming into conflict with the common sense of all nations.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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FRIDAY, *November* 8, 1867.

At the sitting of the court the prisoner was put forward again.

The clerk of the Crown having arraigned the prisoner on this charge, asking him was he guilty or not guilty, the prisoner replied, "I decline to plead."

The CHIEF BARON. I wish to explain to you what the consequence of your not pleading will be. It is now within three or four of 300 years since exactly the same course was adopted in the Court of Queen's Bench, in England, by a prisoner named Story, who was arraigned for treason. He refused to plead, and said he would not do so because he was a subject of the King of Spain, was in his service, had been so for seven years, and he repudiated allegiance to the Sovereign of England. The lord chief justice of that day warned him, as I now warn you, of the consequence of refusing to plead, and that was done which I do now—a book was shown to him, stating what the law was. The law at that time was, that in high treason, if a person refused to plead, judgment was immediately pronounced against him, as if he had pleaded. The man I speak of persisted in refusing to plead, judgment and sentence was immediately pronounced against him, and he was executed. That is not the law now. The law now is that if a person refuses to plead the court will enter a plea of not guilty, and his trial proceeds just as if he had pleaded. [The chief baron here read the enactment on the subject. The chief baron then directed the act to be handed to the prisoner, which was done, and on his refusing to plead, directed the plea of "not guilty" to be entered.]

The PRISONER. Can I have the means of writing, my lord?

The CHIEF BARON. Certainly; give him pens, ink, paper, and blotting paper. You can cross-examine witnesses, and make any statement in your defense, in the same manner as if you had pleaded.

The clerk of the Crown called over the jury panel, and apprised the prisoner that he was about to swear a jury to try him; that he had a right to challenge 20 jurors peremptorily, and as many more as he could show sufficient cause for.

The PRISONER. My lords, I am an American citizen, and I claim to have half the jury Americans.

The CHIEF BARON. Do you allege you were born in America?

The PRISONER. I believe I was born there.

The CHIEF BARON. It will be necessary to show that.

The PRISONER. It may be necessary to show it; but the papers that would show what I am went off in a trunk in the steamer on board of which I was arrested in Queenstown; that is the fault of the Crown, and therefore I am unable to produce those papers in court.

The CHIEF BARON. It is essential for you to state in what manner you are not in the allegiance of the Crown.

The PRISONER. I state before the court I am an American.

The CHIEF BARON. Do you allege that you were born in America?

The PRISONER. I decline to answer any question advantageous to the enemy.

The CHIEF BARON. You say that you are an American. That may mean you are an American citizen, which you may be, and at the same time a British subject, because, if you were born under the allegiance of this country, and afterwards became an

American citizen, you would still be a subject of the Crown of Great Britain and Ireland, and disentitled to such a jury as you demand.

The PRISONER. I beg pardon, my lord. I think it is the duty of the Crown to prove that I was born in the jurisdiction of her Britannic Majesty. They have deprived me of the means.

The CHIEF BARON. Before the Crown can be called upon to give any evidence, it is necessary you should state whether you are or are not a person who was born under the allegiance of the British Crown.

The PRISONER. I decline to make any statement of the sort.

The CHIEF BARON. Declining to make such a statement, we must refuse your application.

The PRISONER. I wish your lordship to understand me distinctly that the claim I make is this: I am an American, and I am prevented by the British Crown to certify to that effect, in consequence of forcing me off the steamer and preventing me taking the papers that would certify to who I am.

The CHIEF BARON. If there are any papers in possession of the Crown, I have no doubt they will produce them.

The PRISONER. I never heard the papers were in possession of the Crown. They forced them from me, and they were carried to America.

The CHIEF BARON. Unless you allege some fact for which you require the papers, we must consider them unnecessary for the purpose of the trial.

The PRISONER. They are necessary for the purpose of identification. That is why I claim those papers to be necessary.

The CHIEF BARON. I have stated to you that your saying you have proofs is immaterial, unless you show what you have to prove; and unless the papers can establish that you were not a British subject, the fact of your being an American citizen becomes immaterial.

The PRISONER. I claim to have a right to these papers that have been either stolen or lost by means of British justice. I consider it amounts to absolute stealing.

The CHIEF BARON. The matter for the court is, whether or not you will be allowed a jury half foreigners. I tell you you cannot be so allowed, unless you state whether you are or are not a person who was born under the allegiance of the British Sovereign.

The PRISONER. I state I am an American, and I think that is sufficient to warrant me in having the jury that I claim.

The CHIEF BARON. I tell you that it is not sufficient. If you state you were an American citizen, whether by becoming an American after you had been a British subject, or that you were born in America, the question of law will arise.

The PRISONER. I understood it to be a principle of British law that a man was presumed to be innocent until he was proved to be guilty; and now I have to prove my innocence before the trial commences at all.

The CHIEF BARON. The question of your guilt or innocence does not arise. Unless you state whether or not you are a person born within the dominions of the Crown of England, we must proceed with the trial.

The PRISONER. I will make no statement of the sort. I will permit the attorney general to pack the jury as he likes.

The CHIEF BARON, (to the attorney general.) Is there any foundation for the claim the prisoner makes?

The ATTORNEY GENERAL. No, my lord. He is not an alien.

The clerk of the Crown then called the names of the jury.

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*Mr. Seward to Mr. Johnson.*

No. 20.] DEPARTMENT OF STATE,
*September* 23, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 12th of September, No. 14.

The President has taken into serious consideration your suggestion that your instructions should be modified so that in a certain contingency you might be authorized to arrange the San Juan question and the Alabama claims before any adjustment of the naturalization question should have been made.

Our conclusion is, that in the event that you become convinced that an arrangement of the naturalization question which would be satisfac-

tory to the United States, in view of your previous instructions, can be made, then and in that case you may open concurrent negotiations upon the two questions first herein named, to wit, San Juan and the claims questions; but that those two negotiations shall not be completed, or your proceedings therein be deemed obligatory, until after the naturalization question shall have been satisfactorily settled by treaty or by law of Parliament.

The reason for this decision is, that notwithstanding the President might repose implicit confidence in assurances which you may receive of an ultimate and satisfactory solution of the naturalization question, yet that this government must, nevertheless, conduct its proceedings in all negotiations with proper deference and respect to the state of opinion which prevails in the Senate, in Congress, and among the people of the United States.

Irritation and jealousy, produced by the unsatisfactory condition of the naturalization laws, were almost daily manifested in the debates, and they marked the proceedings of both houses throughout the whole of the last session of Congress. If this temper of the national mind shall continue, as it probably will, a departure now from the instructions I have heretofore given, so far as to change the order of negotiation, would excite apprehensions that our efforts for the settlement of the naturalization question would prove unavailing, and thus the existing popular anxiety would be increased to a height that might induce Congress to disapprove, and the Senate to reject, even the very arrangements which otherwise might have proved satisfactory in regard to the San Juan and claims questions.

The North German Union and several others of the continental nations have already conceded, by formal treaty, the principle of the defeasibility of allegiance by naturalization, perfected in good faith, in the United States as duly preserved.

The dilatory disposition which is manifested by the British government on this disturbing subject is contrasted in all political debates with this liberality of European continental powers, and thus tends to increase our national distrust of Great Britain. The principles to be settled are, that it is the right of every human being, who is neither convicted nor accused of crime, to renounce his home and native allegiance, and seek a new home and transfer his allegiance to any other nation that he may choose; and that having made and perfected that choice in good faith, and still adhering to it in good faith, he shall be entitled, from his new sovereign, to the same protection under the law of nations that that sovereign lawfully extends to his native subjects or citizens.

These principles Great Britain continues to deny, theoretically, while with rare exceptions her practice has conceded it for 50 years.

The alarms and misapprehensions resulting from that theoretical denial have been a chief element of popular discontent in the United States during the recent troubles in Canada and Ireland; and those alarms and misapprehensions are renewed whenever any political disturbance reveals itself in any part of the British realm, or even the British empire.

Every consideration of national right and of national dignity, every interest of civilization, and every sentiment of humanity, require the United States to insist upon and maintain, in form no less than in fact, the inviolability of the principles thus defined.

I earnestly hope not only that Warren and Costello may soon be released, as you seem authorized to expect, but that the naturalization question may be settled before the new session of Congress in December

I think it hardly necessary to repeat the reasons I have heretofore given why it is desirable that the new administration of this government, which is to come in here on the 4th of March, and the reconstructed administration of Great Britain, which is supposed to be near at hand, shall find themselves relieved of all the international questions which, although they are not intrinsically difficult, have nevertheless so long and so painfully embarrassed both nations.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Johnson to Mr. Seward.*

No. 20.] LEGATION OF THE UNITED STATES,
*London, September* 25, 1868.

SIR: I had, by appointment, an interview to-day with Lord Stanley, and talked over the matters in dispute between the two governments. I am glad to say that the result was entirely satisfactory. Your instructions not authorizing me to negotiate upon the San Juan and Alabama claims until the naturalization question was arranged, I have not done so; but I am persuaded that when I can do so there will be no serious, if any, difficulty. Nor is there any in relation to the other subject. In regard to that, I expect in a week or two to agree upon a protocol of a treaty which will substantially adjust the matter as far as this government can do so previous to such legislation as they deem not only advisable but necessary. As soon as the protocol is agreed to, I hope you will allow me to negotiate as to the other questions, as I suppose the President and yourself desire that these should be satisfactorily adjusted before any legislation by Parliament can be had, there being no reason to hope for that until the spring. I will, of course, forward you a copy of the protocol at the earliest moment, and delay consideration of the other questions until I hear from you.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 28.] LEGATION OF THE UNITED STATES,
*London, October* 7, 1868.

SIR: Since my dispatch No. 20, of the 25th of September, I have had one or two interviews with Lord Stanley relative to the naturalization question, and I am glad to tell you that we have nearly agreed on the terms of a protocol. I am to have another interview with his lordship on Friday next, the 9th instant, when I have every reason to believe the matter will be concluded. As soon as this is done I will advise you of it by telegram, and forward a copy of the protocol by the first mail.

I continue to receive the strongest evidence from other members of the government, as well as Lord Stanley, and from the English public generally, of the friendly feeling entertained by them all for the government

and citizens of the United States; and I therefore entertain no doubt that all matters now in controversy will soon be satisfactorily arranged.

I have the honor to be, sir, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, October* 7, 1868.

Your 20 received. See and adhere to my 20. Send protocol by cable, in cipher.

WILLIAM H. SEWARD.

REVEDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, October* 9, 1868.

Protocol on naturalization signed. Copy by bag.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 29.] LEGATION OF THE UNITED STATES,
*London, October* 9, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatches numbers 19, 20, and 21, respectively.

I was aware of the doctrine held by the judiciary of England upon the subject of native allegiance, as declared by the judge in the case of Halpine, to which you call my attention in your dispatch No. 19. I agree with you in thinking that it has no foundation in reason, but is in violation of man's clearest right—the search for happiness wherever he may think he can find it. That a government should possess the power to throw an insuperable obstacle to the enjoyment of this right is a principle which no just government can admit, and I am glad to be able to assure you that it has no support in England, except what it receives from their courts, who think themselves bound by the decisions of their predecessors made centuries ago, although the judges themselves, I have reason to believe, think of it as every intelligent man at present does. The protocol agreed upon to-day by Lord Stanley and myself, relative to the naturalization question, which you will receive in this

bag, will show you that this government does not hold, but, on the contrary, expressly renounces, the principle.

Referring you to my dispatch accompanying the protocol, I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 30.] LEGATION OF THE UNITED STATES,
*London, October* 9, 1868.

SIR: I have the honor to inclose you a protocol on the naturalization question, signed by Lord Stanley and myself on this day. I hope you will concur with me in thinking that it maintains the American doctrine on the subject in very clear and explicit terms. The first article admits the right of expatriation, and of obtaining absolute citizenship in another country, if the laws of such country admit of it. A native subject of Great Britain, therefore, who has already become, or may hereafter become, under our laws, a naturalized citizen of the United States, ceases to hold any allegiance whatever to Great Britain; and as you will perceive by the two terms which, at my instance, were inserted in that article, should he be again within the dominions of Great Britain, that government will be bound to consider him as "*in all respects and for all purposes*" a citizen of the United States. This, of course, in future trials in the British courts would entitle him to a jury *de mediatate linguæ*, as long as a foreign citizen by the English law is secured that privilege.

The second article is designed to give, and does give, the right to a naturalized citizen to renounce his acquired and resume his native nationality. The manner of doing and declaring this is to be the subject of future arrangement. This article embraces only the naturalized citizens who think proper to remain within the country in which they were naturalized.

The third article covers the cases of those who remove from the country of their naturalization to that of their nativity. In such cases the latter government may, upon such terms as they shall think proper, readmit them to their native citizenship upon their application.

The fourth article is rendered necessary by the laws of England, as construed by the law officers of the Crown, and I have no doubt that that construction is a correct one. I have not made the article reciprocal, because no such difficulty exists with us.

This impediment, however, to a full treaty on the subject, to go into operation at once, I have every assurance will at the earliest moment be removed. This assurance I not only have from members of the present government, including Lord Stanley, but from what is known to be the desire of those who may possibly succeed them by the result of the coming elections.

Being now convinced that the above matter will be soon satisfactorily adjusted, I shall, under the authority given me by your dispatch No. 20, of the 23d of September, proceed to negotiate on the San Juan and Claims questions, subject, of course, to the restrictions that they are not to be finally settled until the question of naturalization is ultimately concluded. For that purpose I am to have an interview with Lord Stanley on Friday, the 16th instant, when we are to consider the San Juan affair.

I continue to keep in view the cases of Warren and Costello, and have reason to believe that they and several of the other prisoners will be released at a comparatively early day.

Trusting that what I have so far done will be approved by the President and yourself,

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Protocol showing the principles agreed upon by the United States and British governments on the question of naturalization.*

The undersigned, Reverdy Johnson, esquire, envoy extraordinary and minister plenipotentiary from the United States of America, and Edward Henry, Lord Stanley, of Bickerstaffe, her Britannic Majesty's principal secretary of state for foreign affairs, being respectively authorized and empowered to place on record the desire of the President of the United States of America, and of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, to regulate the citizenship of the citizens of the United States of America who have emigrated or who may emigrate from the United States of America to the British dominions, and of British subjects who have emigrated or who may emigrate from the British dominions to the United States of America, have agreed upon the following protocol:

I.

Such citizens as aforesaid of the United States who have become or shall become and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of articles II and IV, be held by the United States to be, in all respects and for all purposes, British subjects, and shall be treated as such by the United States. Reciprocally, such British subjects as aforesaid who have become or shall become and are naturalized according to law within the United States of America as citizens thereof, shall, subject to the provisions of articles II and IV, be held by Great Britain to be, in all respects and for all purposes, American citizens, and shall be treated as such by Great Britain.

II.

Such United States citizens as aforesaid who have become and are naturalized within the British dominions as British subjects, and such British subjects as aforesaid who have become and are naturalized as citizens within the United States, shall be at liberty to renounce their naturalization, and to resume their respective nationalities, provided that such renunciation be publicly declared within two years after this protocol shall have been carried into effect, as provided by article IV. The manner in which this renunciation may be made and publicly declared shall be hereafter agreed upon by the respective governments.

III.

If such American citizen as aforesaid, naturalized within the British dominions, should renew his residence in the United States, the United States government may, on his own application, and on such conditions as that government may think fit to impose, readmit him to the character and privileges of an American citizen, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

In the same manner, if such British subject as aforesaid, naturalized in the United States, should renew his residence within the British dominions, the British government may, on his own application, and on such conditions as that government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

IV.

As it will not be practicable for Great Britain to carry into operation the principles laid down in this protocol until provision has been made by the imperial Parliament

for such a revision of the existing laws as the adoption of those principles involves, it is agreed that this protocol shall not take effect until such legislation can be accomplished.

The British government will introduce measures into Parliament for this purpose as speedily as may be possible, having regard to the variety of public and private interests which may be affected by a change in the laws of naturalization and allegiance now under the consideration of the royal commission, whose report is expected shortly to be made.

The same provision not being necessary by the Constitution and laws of the United States, this article is not made reciprocal.

Done at London, the 9th of October, 1868.

REVERDY JOHNSON.
STANLEY.

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*Mr. Johnson to Mr. Seward.*

No. 32.] LEGATION OF THE UNITED STATES,
*London, October* 14, 1868.

SIR: With reference to Mr. Moran's various dispatches reporting the delivery to corporations and individuals in the British dominions of copies of "The Tributes of the Nations to Abraham Lincoln," I have the honor to inclose herewith a number of further acknowledgments of this work, received at this legation since the 17th of August, together with a list of the same. A few of the letters sent out with the books remain unanswered, but replies to these may soon be expected, and the business of delivery and acknowledgment be brought to a close.

I have the honor to remain, with high regard, your obedient servant,
REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of letters of acknowledgment of receipt of "Tributes of Nations to Abraham Lincoln."*

Ladies' Emancipation Society, Edinburgh, (2 notes.)
Improvement commissioners, Rhyl, (2 notes.)
Union and Emancipation Society, Huddersfield.
Municipal council, Hertford.
Wesleyan ministers and stewards, Belfast, (2 notes.)
Municipal council, Cupar.
Municipal authorities, Patrick, (2 notes.)
Municipal council, Sunderland, (2 notes.)
Municipal council, Waterford.
Workingmen's Association, Birkenhead.
Grand Lodge of Freemasons of Ireland, Dublin.
Municipal council, Dublin.
Ministers and stewards, Enniskillen district.
Municipal council, Leicester, (2 notes.)
Municipal council, Tewkesbury.
American Chamber of Commerce, Liverpool.
Workingmen's Club and Institute, Bristol.
Union and Emancipation Society, Manchester.
Municipal authorities, Hinton.
Local Board of Health, Barnsley.
A. A. Ralli, esq., London.
Municipal council, Bradford.
Municipal authorities, Montrose.
Municipal council, Crail.
Teachers of the ragged schools, Bristol.
British and Foreign Anti-slavery Society, London.

Board of Works, Whitechapel district, London.
Municipal council, Morpeth.
Mr. Lewis Blane, London.
Municipal council, Preston, (2 notes.)
Preston Anti-slavery Society.
Workingmen's Institute, Swansea.
Municipal council, Banbury.
Northern Presbytery of Antrim, Ballyclare.
Ladies' Negroes' Friend Society, Birmingham.
Municipal council, Worcester.
Rev. J. B. Balmer, Bridgewater, (2 notes.)
Municipal council, Carnarvon.
Municipal authorities, Norwich.
Chamber of Commerce, Bradford.
Watch committee of the corporation of Newport, Monmouthshire, (2 notes.)
Municipal council, Rockdale.
Municipal council, Bridgenorth.
Municipal council, Dewsbury.
Sunday School Union, Stockport.
Chamber of Commerce, Huddersfield.
Municipal council, Frockheim.
London committee of deputies of the British Jews, (2 notes.)
Municipal council, Axbridge.
Municipal authorities, Newburgh.
Municipal council, Bridgewater.
Municipal council, Stroud.
Municipal council chamber, Stirling.
Municipal council, Dumfermline.
Richard Livingstone, esq., Barrhead.
Municipal council, South Shields.
Convener courts of the seven incorporated trades of the city, Aberdeen.
Emancipation Society, London.
British Temperance League, Manchester.
Municipal council, Staplehurst, (2 notes.)
Sir G. Gray, Chathill.
Rev. George W. Murphy, London.
American Order of Foresters.
Dutchess of Sutherland.
Municipal authorities, London.
Municipal council, Portsmouth.
Municipal council, Wells.
Municipal council, Aye.
Municipal authorities, Bilston.
Commissioner of supply, Jedburgh.
Municipal council, Leominster.
Congregational church, Ryde.
Synod of the Reformed Presbyterian Church of Scotland.

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*Mr. Johnson to Mr. Seward.*

No. 35.] LEGATION OF THE UNITED STATES,
*London, October* 17, 1868.

SIR: I am glad to tell you that I have this day signed with Lord Stanley a protocol for the settlement, by arbitration, of the northwest boundary controversy. By the first article the arbiter is "to determine what is the line which," according to the terms of the treaty of the 15th of June, 1846, "runs southerly through the middle of the channel which separates the continent from Vancouver's island and of Fuca's straits to the Pacific ocean."

By the second, if the arbiter shall be unable to determine what is such line, he is then to decide "upon some line which," in his opinion, "will furnish an equitable solution of the difficulty, and be the nearest

approximation that can be made to an accurate construction of the words of the treaty."

By the fourth, the decision of the arbiter, whatever it may be under the authority conferred upon him, is agreed to be final and conclusive upon both governments.

By the third, in the discharge of his duty the arbiter is given the right to consult all correspondence which has been had between the two governments on the subject, and all the evidence or other matters which were before the commissioners heretofore appointed to run the line, and all evidence that either government may produce.

By the first, the arbiter, who is to be some friendly sovereign or state, is to be selected by the two governments within three months after the ratification of the convention.

Not being authorized to make this arrangement at once operative because of the restrictions contained in your modified instructions in your dispatch No. 20, of the 23d of September, it is provided that the convention is not to be final until the naturalization question is conclusively settled by treaty or act of Parliament, or both, unless the two governments in the interval shall otherwise agree. The subject-matters of the submission, you will see, are those contained in Lord Lyons's dispatch to Secretary Cass, of the 10th of December, 1860, and which, as I understand by your original instructions to me in dispatch No. 2, of the 20th of July, 1868, I was authorized to consent to.

The protocol accompanies this dispatch, and I hope that it will receive the sanction of the President and yourself.

This matter having been disposed of, I am to have an interview with Lord Stanley on Tuesday next, to commence negotiating as to what is known as the Alabama claims question, and I believe that I shall be able at an early day to communicate to you a satisfactory adjustment of it.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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PROTOCOL.

The undersigned, Reverdy Johnson, esq., envoy extraordinary and minister plenipotentiary of the United States of America, and Edward Henry, Lord Stanley, her Britannic Majesty's principal secretary of state for foreign affairs, being respectively authorized and empowered to place on record the basis on which the United States of America and her Majesty, the Queen of the United Kingdom of Great Britain and Ireland, are prepared to close all further discussion with regard to the true direction of the line of water boundary between their respective possessions, as laid down in article I of the treaty concluded between them on the 15th of June, 1846, have agreed upon the following protocol:

I.

Whereas it was stipulated, by article I of the treaty concluded at Washington on the 15th of June, 1846, between the United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, that the line of boundary between the territories of the United States and those of her Britannic Majesty, from the point on the 49th parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's island, and thence southerly, through the middle of the said channel and of Fuca's straits, to the Pacific ocean;" and whereas the commissioners appointed by the two high contracting parties to mark out that portion of the boundary which runs southerly through the middle of

the channel aforesaid have not been able to determine which is the true line contemplated by the treaty—

It is agreed to refer to some friendly sovereign or state to determine the line which, according to the terms of the aforesaid treaty, runs southerly through the middle of the channel which separates the continent from Vancouver's island and Fuca's straits to the Pacific ocean; and it is further agreed that within three months after the exchange of the ratifications of any treaty that may hereafter be concluded for giving effect to the terms of this protocol, the contracting parties shall select some friendly sovereign or state to act as referee in the premises.

II.

If such sovereign or state should be unable to ascertain and determine the precise line intended by the words of the treaty, it is agreed that it shall be left to such sovereign or state to determine upon some line which, in the opinion of such sovereign or state, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the treaty.

III.

It is agreed that such soverign or state shall be at liberty to call for the production of, and to consult all, the correspondence which has taken place between the American and British governments on the matter at issue, and to weigh the testimony of the American and British negotiators of the treaty, as recorded in that correspondence as to their intentions in framing the article in question; and such sovereign or state shall further be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from, or were considered by, the commissioners who have recently been employed by the two governments, to endeavor to ascertain the line of boundary as contemplated by the treaty, and to consider all evidence that either party may produce. But the referee shall not depart from the true meaning of the article as it stands, if he can deduce that meaning from the words of that article; those words having been agreed to by both parties, and having been inserted in a treaty ratified by both governments

IV.

The respective parties formally engage to consider the decision of the referee, when given, as final and conclusive; whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of article I of the treaty of 1846, or whether the said referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall without reserve be carried into immediate effect by commissioners to be appointed for the purpose of marking out the line of boundary in accordance with such decision of the referee.

V.

It is understood that this agreement shall not go into operation or have any effect until the question of naturalization now pending between the two governments shall have been satisfactorily settled by treaty, or by law of Parliament, or by both, unless the two parties shall in the mean time otherwise agree.

Done at London, the 17th of October, 1868.

REVERDY JOHNSON.
STANLEY.

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, October* 20, 1868.

Can I sign convention for claims on basis of treaty of February, '53?

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, October* 20, 1868.

Can I consent to leave all questions as to Alabama claims to arbitration of King of Prussia?

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, October* 24, 1868.

Insist on convention like 1853, without now naming arbiter. Convention must be submitted to Senate and the country. Objection would be raised to any arbiter who could be named in advance. When convention goes into effect, the two governments can instruct the commissioners to agree on arbiter.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, October* 25, 1868.

Naturalization protocol approved. Can you hasten claims convention?

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

No. 31.] DEPARTMENT OF STATE,
*Washington, October* 26, 1868.

SIR: I give you herewith a copy of a cable telegram which was sent you on the 25th instant. The protocol therein mentioned is brief, simple, effective, and therefore as satisfactory as any arrangement that could be made without waiting for legislation.

For your diligence in the matter you will please accept the President's commendation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, October* 27, 1868.

Dispatch received. Will try to hasten claims convention.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 40.] LEGATION OF THE UNITED STATES,
*London, October* 28, 1868.

SIR: Your cipher telegrams, dated the 21st, 24th, and 27th instant, respectively, have been received.

I was to have had an interview with Lord Stanley to-day, but he has just advised me that he is obliged to leave the city, and therefore to postpone our meeting until to-morrow.

Under the authority given me by your cipher dispatch of the 24th instant, I hope and believe that I shall be able to conclude a convention in relation to the Alabama claims and other similar claims, as well as all other claims, upon the basis of the convention of the 8th of February, 1853.

His lordship, however, is very reluctant to leave the decision of the first two of those claims to a board composed of subjects of her Majesty or citizens of the United States, with an authority to call in an umpire to be selected by themselves, because of the character of the questions of international law which they present. He prefers that these should be submitted to some foreign friendly government. But this, I think, he will consider will be accomplished by a convention under which the selection of an arbitrator is to be afterwards made by the two governments, and not by the commissioners.

I fully appreciate the force of the objections suggested by you to the naming of an arbitrator in regard to these claims in the convention itself, that it might hazard its confirmation by the Senate and be more or less distasteful to the country.

It is understood between us that the arbitrator is not to be restricted to the consideration of any one point upon which the claims may rest, but may consider every one involved in them.

I am gratified to know, from your dispatch above referred to, of the 27th instant, that the protocol on the naturalization subject heretofore sent to you is approved. On the request of his excellency Mr. Hale, our minister at the court of Madrid, and General Bartlett, our minister resident to Norway and Sweden, made, as I understand, at the instance of your department, I have forwarded them copies of the protocol.

Although I have not as yet heard whether the one in relation to the San Juan difficulty is approved, yet I look with confidence to my being early so advised.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, October* 29, 1868.

Expect to sign Alabama convention, as instructed, next week.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 42.] LEGATION OF THE UNITED STATES,
*London, October* 31, 1868.

SIR: Although my last cipher dispatch advised you that the Alabama claims question was going on favorably, I think it as well to repeat the information. Under the authority of your cipher dispatch of the 24th instant, I believe I shall be able to conclude a convention upon such terms as you and the President will approve, and it is more than probable that this may be accomplished before you receive this note, and that you will be advised of it by telegraph. Although I have not, as yet, heard whether the San Juan protocol has your sanction, I assume that it will have, as it seems to me to be within the scope of your original instructions on that subject. I have, therefore, the strongest hope that the President will be able to communicate in his next annual message to Congress a satisfactory adjustment of all the matters which have for some years, to a certain extent, weakened the friendly relations between the two countries.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, November* 7, 1868.

San Juan protocol right, except President Switzerland must be named arbitrator. Claims protocol will meet opposition. Amendment of San Juan's protocol as proposed very important. I supposed Switzerland understood. Procure protocol so amended. Refer Stanley to Lyons's letter to Cass, December 10th, 1860. Lyons wrote Cass that British government proposed arbiter, King Netherlands, King Sweden, President Switzerland. Cass resigned. Correspondence ended there. Copy Lyons's letter goes by mail.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

*Mr. Seward to Mr. Johnson.*

No. 36.] DEPARTMENT OF STATE,
*Washington, November 7, 1868.*

SIR: Your dispatch of the 17th of October, No. 35, has been received. It is accompanied by the protocol of a settlement of the northwest boundary controversy, commonly called the controversy in regard to the island of San Juan, in Puget sound. I have virtually replied to the dispatch by a cable telegram of this date, in cipher, a copy of which is herewith given. I give you now a copy of a message* which was sent by the President to the Senate of the United States on the 20th of February last, upon the subject of that controversy. On page 264 of that document you will find a copy of the letter which was written by Lord Lyons to Mr. Cass on the 10th of December, 1860, and to which letter reference is made in the aforementioned telegram. It is hardly necessary to explain further than I have done in my telegraphic dispatch the importance of having the President of Switzerland named in the San Juan protocol as arbiter.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Lord Lyons to Mr. Cass.*

WASHINGTON, *December* 10, 1860.

SIR: In the note which you did me the honor to address me on the 25th June last, you informed me that the President was equally solicitous with the government of her Majesty for the amicable and satisfactory adjustment of the questions at issue between the two countries respecting the execution of the treaty signed at Washington on the 15th June, 1846. You added that the government of the United States would be ready to receive and fairly to consider any proposition which her Majesty's government might be disposed to make for a mutually acceptable adjustment, with an earnest hope that a satisfactory arrangement would speedily put an end to all danger of the recurrence of those grave questions which have more than once threatened to interrupt that good understanding which both countries have so many powerful motives to maintain.

The absence from England of her Majesty's secretary of state for the colonies prevented her Majesty's government from enabling me to make an earlier reply to this communication. But her Majesty's government have not relaxed in their desire to close the controversy with regard to the complete execution of the treaty; and, in the confident hope of settling the whole matter in a manner satisfactory and honorable to both parties, they have directed me to lay before you the proposals which I shall proceed to state in this note.

The two points which have been in discussion are, first, the fulfillment of the obligations undertaken by the United States in respect to the Hudson's Bay and Puget Sound Companies; and, secondly, the determination of the line of water boundary intended by the first article of the treaty. With regard to the first point, the President said to me, in the course of a conversation which I had the honor of holding with him on the 11th July last, that the best and most expeditious mode of settling the question would be for the companies to state at once the lowest sum for which they would sell their rights to the United States. Upon receiving from me a report of this conversation, Lord John Russell, her Majesty's principal secretary of state for foreign affairs, sent for the governor of the Hudson's Bay Company and explained to him what the President had said to me on the subject of the company's claims.

The governor informed Lord John Russell, in reply, that if the company were called upon to fix the amount which they should ask for the extinction of their claims, they should name a sum of $650,000. He observed that they had been assessed at $700,000, and that in the United States, as in England, the assessment is always below the real value. The governor added that this sum of $650,000 would be an assessment on land and buildings alone, and would not include any compensation for privileges.

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* Senate Ex. Doc. No. 29, 2d session 40th Congress.

Considering all the circumstances, Lord John Russell recommended the company to reduce their claim to $500,000; and this sum the company have stated their readiness to accept.

I am, accordingly, instructed to state to you, sir, that if the United States government will agree to pay to the Hudson's Bay and Puget Sound Companies a sum of $500,000 in extinction of all their claims against the United States under the treaty of June 15, 1846, her Majesty's government will be prepared to accept that amount on behalf of the two companies, and to release the United States government from all further liability, so far as regards their engagements to Great Britain under the third and fourth articles of that treaty in behalf of the Hudson's Bay and Puget Sound Companies in Oregon, whether on account of lands and buildings, or on account of privileges mentioned in the aforesaid articles.

In reference to the line of the water boundary intended by the treaty, with respect to which, also, her Majesty's government have been invited by the United States government to make a proposition for its adjustment, I am instructed to inform you that her Majesty's government are glad to reciprocate the friendly sentiments expressed in your note of the 25th of June, and will not hesitate to respond to the invitation which has been made to them.

It appears to her Majesty's government that, the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction on the other, the question can only be settled by arbitration.

Three questions would arise thereupon—

1. What is to be the subject matter of arbitration?
2. Who is to be the arbiter?
3. What is to be the result of the decision of the arbiter?

With regard to the first point, her Majesty's government are of opinion that the question or questions to be referred should be, What is the meaning of the words relating to the water boundary contained in article 1 of the treaty of June 15, 1846; or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the treaty?

In considering these questions the arbiter might fairly consult all the correspondence on the subject, and weigh the testimony of the British and American negotiators of the treaty as to their intentions in framing the article; but he should not depart from the true meaning of the article as it stands, if he can deduce it from the words agreed to by both parties, and consigned in a treaty ratified by both governments.

Secondly, her Majesty's government are of opinion that a reigning prince or sovereign state should be the arbiter; her Majesty's government propose, with this view, that the King of the Netherlands, or King of Sweden and Norway, or the President of the federal council of Switzerland, should be invited to be the arbiter.

With regard to the third point, her Majesty's government are desirous that this long controversy should not be again thrown loose for dispute; they therefore propose that both governments shall bind themselves to accept the decision of the arbiter, whether he shall give a positive decision or whether he shall declare that he cannot fix the precise meaning of the article in question, but that he has laid down on the chart a line which will furnish an equitable solution of the difficulty, and is the nearest approximation he can make to an accurate construction of the words of the treaty.

Should these proposals be accepted, her Majesty's government flatter themselves that an equitable decision may be arrived at and a long and dangerous controversy terminated in a manner consistent with the honor and the interests of both governments.

I have the honor to be, sir, with the highest consideration, your most obedient, humble servant,

LYONS.

Hon. General LEWIS CASS,
*Secretary of State.*

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*Mr. Johnson to Mr. Seward.*

No. 47.] LEGATION OF THE UNITED STATES,
*London, November 7, 1868.*

SIR: I have more pleasure in saying to you that I have good reasons for believing that there will be no such delay in the execution of the convention relative to the Alabama claims as I anticipated in my confidential dispatch No. 44, of the 4th instant. I think at present that a convention on the subject will be signed in the course of the coming

week, and hope to be able to send it to you by the bag of Wednesday or Saturday next. If a satisfactory arrangement is thus made of this perplexing and for a time rather dangerous controversy, there will then be nothing remaining to prevent the return of perfect friendly relations between the two countries, and that such a result will be satisfactory to the people of both, and inure greatly to their joint advantage, I can have no doubt.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

[Extract.]

No. 48.] LEGATION OF THE UNITED STATES,
*London, November* 10, 1868.

SIR: * * * * * *

The amendment you suggested in the San Juan protocol has been made by a supplementary protocol, the original of which accompanies this dispatch. I am glad to say that Lord Stanley willingly and at once assented to your suggestion.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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PROTOCOL.

The undersigned, Reverdy Johnson, esq., envoy extraordinary and minister plenipotentiary of the United States of America, and Edward Henry, Lord Stanley, her Britannic Majesty's principal secretary of state for foreign affairs, being respectively authorized and empowered by their governments, hereby declare that the said governments agree to refer the disputed question of boundary, which forms the subject of the protocol signed by them on the 17th of October last, to the decision of the President of the federal council of the Swiss confederation.

Done at London the 10th of November, 1868.

REVERDY JOHNSON.
STANLEY.

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*Mr. Johnson to Mr. Seward.*

No. 49.] LEGATION OF THE UNITED STATES,
*London, November* 10, 1868.

SIR: I have the gratification to inform you of the particulars of the joint convention, signed by Lord Stanley and myself on this day, for the settlement of all the claims that the citizens of either country may have against this government and the government of the United States; what are known as the Alabama claims are of course embraced by it.

The first article provides for the appointment of four commissioners, two by each government. The board to meet in London at the earliest

period subsequent to their appointment, and before considering any claims to agree upon an umpire.

In the event of their not being able to come to a decision upon any claim, the questions are to be submitted to the umpire.

In relation to all claims other than the Alabama claims, decisions may be made by a majority of the commissioners.

This provision is contained in the second article. It also stipulates that each government is to appoint one person to represent it before the board as agent, and points out in general terms his duties.

By the third article all claims are to be presented within six months from the day of their first meeting; but authority is given them to extend the time for their presentation three months longer. And the whole is to be closed within two years from the first-named day.

Articles four, five, and six apply only to the Alabama claims. By the fourth, before the commissioners are to consider such claims, the two governments are to agree upon some "sovereign or head of a friendly state as an arbitrator, in respect of such claims, to whom such class of claims shall be referred, in case the commissioners shall be unable to come to a unanimous decision upon the same."

By the fifth, if the arbitrator appointed under the authority of the fourth shall decide in favor of any or all of these claims, they are to be referred back to the commissioners to ascertain the amount due upon each. This may be decided by a majority; and if there be not a majority, the decision is to be made by the umpire appointed by the commissioners under the authority given them by the first article.

By the sixth article the correspondence and evidence in regard to these claims, now in the possession of either government, are, without further argument or evidence, to be alone considered by the commissioners or the arbitrator, unless they, unanimously, or he, shall call for further argument or evidence.

By the seventh the decision by the commissioners or the arbitrator, as the case may be, is made conclusive upon both governments.

Under the eighth article no claims are to be received which may have arisen prior to the 26th of July, 1853, the date of the exchange of the ratifications of the convention of 8th February, 1853, these having all been adjusted by the commissioners under that treaty.

Under the ninth article the awards are to be paid in coin, or its equivalent, without interest, within twelve months after the date of each award.

The tenth article makes the decisions arrived at under the convention conclusive upon all claims presented; and all claims which might be presented, but are not, are also to be barred.

The eleventh article contains some details, and gives the authority to appoint the secretary of the board to the principal secretary of state for foreign affairs and United States minister in London.

The salaries of the commissioners are to be fixed and paid by each government appointing them.

The remaining article provides that the ratifications of the convention are to be exchanged at London as soon as may be within twelve months from its date.

It is proper that I should give, as briefly as may be necessary, my reasons for assenting to the convention, or rather to some of its provisions: 1st. You have heretofore refused to enter into an agreement to arbitrate the Alabama claims unless this government would agree that the question of its right to acknowledge as belligerents the late so-called southern confederacy be also included within the arbitration. You will

see by the terms of the first and the fourth articles that that question, as well as every other which the United States may think is involved in such claims, is to be before the commissioners, or the arbitrator. This is done by the use of general terms and the omission of any specification of the questions to be decided. And my authority for agreeing to this is found in your original instructions of the 20th of July last, and is indeed to be found in the correspondence between yourself and my predecessor regarding these claims.

2d. Upon reflection, I thought it better for our claimants, particularly the Alabama claimants, that the commission should sit in London instead of Washington, because nearly all if not all the evidence upon which they rest is to be found here or in Liverpool, and my instructions were silent as to the place of meeting.

3d. The provision that the awards are to be paid in coin, or its equivalent, I deemed to be due to good faith. As those which may be made in favor of our citizens against this government will be paid in coin, I thought it obviously just that those which may be made in favor of British subjects should be discharged in the same way.

Hoping and not doubting that the convention will meet with the approval of the President and yourself, and receive the sanction of the Senate, I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Convention between Great Britain and the United States of America for the settlement of all outstanding claims. Signed at London, November* 10, 1868.

Whereas claims have at various times since the exchange of the ratifications of the convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the government of her Britannic Majesty on the part of citizens of the United States, and upon the government of the United States on the part of subjects of her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feeling which subsist between the two countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Edward Henry Stanley, commonly called Lord Stanley, a member of her Britannic Majesty's most honorable privy council, a member of Parliament, her principal secretary of state for foreign affairs;

And the President of the United States of America, Reverdy Johnson, esquire, envoy extraordinary and minister plenipotentiary from the United States to her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

The high contracting parties agree that all claims on the part of subjects of her Britannic Majesty upon the government of the United States, and all claims on the part of citizens of the United States upon the government of her Britannic Majesty, which may have been presented to either government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article III of this convention, whether or not arising out of the late civil war in the United States, shall be referred to four commissioners, to be appointed in the following manner, that is to say: two

commissioners shall be named by her Britannic Majesty, and two by the President of the United States. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act as such, her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commissioners so named shall meet at London at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the governments of her Britannic Majesty and of the United States, respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision, save as otherwise provided in article IV of this convention, shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the commissioners on either side shall name a person as arbitrator or umpire; and in each and every case in which the commissioners may not be able to come to a decision, the commissioners shall determine by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining, or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

ARTICLE II.

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government, as counsel or agent for such government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal.

The decision of the commissioners, and of the arbitrator or umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The provisions of this article shall, however, be subject to the special arrangements made by articles four, five, and six of this convention, respecting the claims which form the subject of those articles, and which shall be dealt with as directed in those articles.

ARTICLE III.

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire in the event of the commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the commissioners, or for the arbitrator or umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly or to any and what extent, according to the true intent and meaning of this convention.

ARTICLE IV.

The commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two governments as the Alabama claims; but before any of such claims is taken into consideration by them, the two high contracting parties shall fix upon some sovereign or head of a friendly state as an arbitrator in respect of such claims, to whom such class of claims shall be referred in case the commissioners shall be unable to come to a unanimous decision upon the same.

ARTICLE V.

In the event of a decision on any of the claims mentioned in the next preceding article being arrived at by the arbitrator involving a question of compensation to be paid, the amount of such compensation shall be referred back to the commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator appointed by them, or who shall have been determined by lot according to the provisions of article I.

ARTICLE VI.

With regard to the before-mentioned Alabama class of claims, neither government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two governments respecting the questions at issue shall alone be laid before the commissioners; and (in the event of their not coming to a unanimous decision as provided in article IV) then before the arbitrator, without argument written or verbal, and without the production of any further evidence.

The commissioners unanimously, or the arbitrator, shall, however, be at liberty to call for argument or further evidence, if they or he shall deem it necessary.

ARTICLE VII.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the commissioners, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by them or him respectively, and to give full effect to such decisions without any objection or delay whatever.

ARTICLE VIII.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the convention of the 8th of February, 1853, shall be admissible under this convention.

ARTICLE IX.

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin or its equivalent by the one government to the other, as the case may be, within twelve months after the date of the decision, without interest.

ARTICLE X.

The high contracting parties engage to consider the result of the proceedings of this commission as a full and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before, the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled and barred.

ARTICLE XI.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The secretary shall be appointed by the principal secretary of state for foreign affairs of her Britannic Majesty, and by the representative of the United States in London, jointly.

Each government shall pay the salaries of its own commissioners. All other expenses, and the contingent expenses of the commission, including the salary of the secretary, shall be defrayed in moieties by the two parties.

ARTICLE XII.

The present convention shall be ratified by her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at London as soon as may be, within twelve months from the date hereof.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

[SEAL.] STANLEY.
[SEAL.] REVERDY JOHNSON.

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, November*, 11, 1868.

Claims protocol not received. Convention must sit in Washington. We thought this understood—absolutely essential under circumstances. Get this, and all will be right.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, November* 12, 1868.

Will try Washington. Best for Alabama claims. All proof here. If umpire European, Washington would much delay settlement. Did not understand you wished Washington. Your 375 to Adams says not of sufficient importance to insist on. Stanley not here. Can do nothing without him. Convention, yesterday's mail.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, November* 12, 1868.

Insist, in view of highly disturbed national sensibilities, Washington is indispensable.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

*Mr. Johnson to Mr. Seward.*

No. 53.] LEGATION OF THE UNITED STATES,
*London, November* 14, 1868.

SIR: As you will have seen before this reaches you, your cable cipher dispatch of the 11th instant was duly received. The one of the next day was also duly received.

Lord Stanley will not be in London before Wednesday or Thursday next, and until then I shall not be able to inform you whether Washington will be substituted for London as the place for the meeting of the claims commission.

As stated in my cipher dispatch to you of the 12th instant, I agreed to London as the place for two reasons: first, because what are known as the Alabama claims against this government, involve a much larger amount than all the other claims of our citizens, and the evidence in support of them, as well as any other that may be called for by the commissioners or the umpire, is in England; and, second, because I suppose it to be almost certain that the umpire in relation to these claims will be the head of a European state, to whom the claimants and the agent of our government could have much more speedy access than if the commission was in Washington; and I cannot help thinking that the proposed change, if effected, will operate to their injury, or at least to their inconvenience. If, however, I had been instructed to insist upon Washington as the place of meeting, or had understood that such was the wish of yourself and the President, I should have insisted upon it. But I was not so instructed nor did I so understand.

Your original instructions to me of the 20th of July, 1868, are altogether silent upon the point, as are also everything which you have forwarded to me since, prior to your cipher dispatch of the 11th instant; and, before signing the convention, I referred to your dispatch No. 375, of 21st October, 1862, to Mr. Adams, in which I found that although the evidence on which the then "British claims," or the most of them, rested, was said by you to be in the United States, a suggestion doubtless made with a view to induce this government to agree to Washington as a place for the meeting of the commission you then desired. You informed Mr. Adams that, if it was strenuously objected to by this government, it was "a matter not of sufficient importance to be insisted upon." Although I cannot say that Lord Stanley strenuously objected to the change—and I hope he will not now—yet he urged me to agree to London as the place best suited for the interest of all claimants, British and American, and as being much more convenient and less expensive. I thought this view was the correct one, and acted upon that impression. Under these circumstances I hoped that the President and yourself will not think that I committed any great mistake. It may be true that at home there exists "a highly disturbed national sensibility," which for a moment would influence the public judgment upon the subject, yet I have such confidence in the good sense of our people as to believe that when all the facts are known and the reasons which have governed me are disclosed, that judgment would be satisfied with what I have done. But, however this might be, I will now do whatever I may be able to get Washington instead of London made the place for the meeting of the commission, and will, at the earliest moment, advise you of the result.

I have the honor to remain, with high regard, your obedient servant.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, November* 16, 1868.

Have reason to believe Washington will be agreed to.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 61.] LEGATION OF THE UNITED STATES,
*London, November* 23, 1868.

SIR: Lord Stanley and myself have signed to-day a supplement to the claims convention, which makes two changes in the original. The first is that Washington is to be the place of meeting of the commission instead of London; and the second, rendered necessary by that change, is that the secretary of the commission is to be chosen by our Secretary of State and the British minister at Washington.

I am glad to say that Lord Stanley very readily assented to these alterations, and that he has from the first evinced an earnest desire to settle upon terms entirely satisfactory to the United States every disputed matter, while scrupulously guarding what he believed to be the rights and honor of his own country; and I am equally glad to say that this is in accordance with the manifest sentiment of the people of all classes, and especially of the statesmen who, if there be a change in the administration here, will be called to the government.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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ADDITIONAL ARTICLE.

Whereas by article I of the convention between her Britannic Majesty and the United States of America, signed at London on the 10th day of November, 1868, for the settlement of all outstanding claims, it was agreed that the commission thereby stipulated to be appointed for the investigation and decision of such claims should meet at London; and whereas it has since appeared desirable that the place of meeting of the said commission should be Washington, the plenipotentiaries who signed that convention, having met together, have agreed to substitute Washington for London as the place for the meeting and sitting of the commission aforesaid. They have further agreed that the secretary of the commission shall be appointed by the representative of Great Britain at Washington and by the Secretary of State of the United States, jointly, instead of in the manner provided by article XI of the convention.

The present additional article shall have the same force and effect as if it had been inserted, word for word, in the convention of the 10th of November, 1868. It shall be ratified and the ratifications shall be exchanged at the same time as those of the convention.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London the 23d day of November, in the year of our Lord 1868.

[SEAL.] STANLEY.
[SEAL.] REVERDY JOHNSON.

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, November* 24, 1868.

Washington substituted for London. See bag.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES.
*London, November* 24, 1868.

Can San Juan protocol be made a convention? Thought advisable. Answer.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, November* 26, 1868.

Can San Juan protocol be changed to convention? Asked Monday; not answered. Answer.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, November* 26, 1868.

Let San Juan rest. Claims convention unless amended is useless. Wait for dispatches Friday or Saturday.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.:*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, November* 27, 1868.

The following amendments referring to British printed copy are essential in the claims treaty:

Article I, line 20, insert after President, "by and with the advice and consent of the Senate."

Same article I, second paragraph, strike out "London" and insert "Washington."

Same article I, third page, strike out, "save as otherwise provided in article IV of this convention."

Article II. Strike out the last paragraph entire.

Article IV. Strike out all after word "claims" in fourth line, or, if preferred, cancel the whole of article IV.

Article V. If article IV is amended and retained as above proposed, article V may then stand without amendment. If article IV is canceled entirely, then amend article V, line 2, by striking out the words, "mentioned in the next preceding article."

Article VI. Either cancel the whole article, or substitute the following therefor: "In case of every claim, the official correspondence which has taken place between the two governments respecting the questions at issue shall be laid before the commissioners, and, in the event of their not coming to a decision thereupon, then before the arbitrator. Either government may also submit further evidence and further argument thereupon, written or verbal."

Article IX. Strike out "12" and insert "18."

Article XI, second paragraph, strike out all after the word "the" and insert "representative of her Britannic Majesty at Washington and the Secretary of State of the United States, jointly."

If these amendments be not accepted, let San Juan remain in protocol. If they are accepted, sign the claims convention as amended, and convert San Juan protocol into convention and sign the same. Full explanations go by post, but time is important.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Johnson.*

No. 47.] DEPARTMENT OF STATE,
*Washington, November* 27, 1868.

SIR: I have received your dispatch of the 10th of November, No. 49, which is accompanied by a convention which you signed with Lord Stanley at London on the 10th instant, for the settlement of all outstanding claims. Your dispatch gives your reasons for assenting to the convention, and especially to some of its provisions. Having submitted these papers to the President, I am now to give you his directions concerning the matters thereby presented. In order to do this with greater perspicuity, I shall take notice of the several articles contained in the convention in their proper order.

Article I provides for the appointment of four commissioners for the adjustment of mutual claims, two to be named by her Britannic Majesty and two by the President of the United States. In the event of any commissioner omitting or ceasing to act, her Britannic Majesty, or the President of the United States, as the case may be, shall name another person to act as commissioner instead of the commissioner originally named. Article I further provides that the commissioners shall meet at London, and make and subscribe a solemn declaration therein prescribed. This declaration shall be entered of record. This article further provides that the commissioners shall then, and before proceeding to any other business, name some person to act as arbitrator or umpire, to whose

final decision, save as otherwise provided in article IV, shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the commissioners on either side shall name a person as arbitrator or umpire, and in each and every case in which the commissioners may not be able to come to a decision, the commissioners shall determine by lot which of the two persons so named shall be arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall make and subscribe the same solemn declaration which is prescribed to the commissioners, and it is to be entered of record. In the event of the death, absence, incapacity, or failure of such arbitrator or umpire, another shall be named to act as arbitrator or umpire, in the same manner as the person originally named.

In regard to this article I, I remark that we must require that it may be amended so as to provide that the commissioners to be named on the part of the United States shall be named by the President, "by and with the advice and consent of the Senate of the United States." It is not doubted that this ought to be, as it probably would be taken to be, the meaning of the convention as it now stands. Nevertheless, with the view to avoid possible misapprehension, it is desirable that the article should be amended so as to make the provisions literally conform in this respect to the Constitution of the United States. Of course her Majesty's government can have no objection to this amendment.

Secondly, we are advised that in accordance with my suggestions heretofore made by cable telegram, her Majesty's government have consented to amend this first article so as to substitute "Washington" instead of "London" for the place of the meeting of the commissioners. This amendment will be expected to be finally made.

Thirdly, we must insist upon amending this first article by striking out the words "save as otherwise provided in article IV of this convention." Our reasons for this amendment will fully appear in my commentary upon articles IV, V, and VI. You are authorized to say that with these amendments article I would be satisfactory to the President of the United States.

I proceed to article II. Article II prescribes certain forms and rules for the proceedings of the commissioners, and provides that each government may name one person to attend the commissioners as agent upon its behalf, to present and support claims on its behalf, to answer claims made upon it, and to represent it generally. Article II closes with the following paragraph: "The provisions of this article shall, however, be subject to the special arrangements made by articles IV, V, and VI of this convention, respecting the claims which form the subject of those articles, which shall be dealt with as directed in those articles."

The United States must insist on striking out this last paragraph of article II, for the reasons which appear in the remarks hereinafter made on articles IV, V, and VI. You are authorized to say that with this exception article II would be satisfactory to the President.

I pass to article III. Article III fixes the periods within which claims shall be submitted, examined, and decided. This article is unobjectionable, and is entirely approved.

I have thus come to article IV. Article IV specially declares that the commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two governments as the Alabama claims, but declares that, before any such claims are to be taken into consideration by them, the two high contracting parties shall fix upon some sovereign or head of a friendly state as an

arbitrator in respect of such claims, to whom such class of claims shall be referred in case the commissioners shall be unable to come to a unanimous decision upon the same.

The United States are obliged to disallow this article IV. The United States have no objection to the first clause of the article, which declares that the commissioners shall have power to adjudicate upon the so-called Alabama claims. Indeed, the United States would willingly retain this clause because of its explicitness in regard to the Alabama claims. They did not in their instructions to you insist upon such a special direction in regard to the Alabama claims, but only because they thought that special mention of those claims might be deemed inconvenient on the part of her Majesty's government, while it could not admit of doubt that these so-called Alabama claims were plainly included, as well as all other claims of citizens of the United States, in the comprehensive description of claims contained in article I.

Secondly, it is to be considered by her Majesty's government that the Alabama class of claims constitute the largest and most material portion of the entire mass of claims of citizens of the United States against Great Britain which it is the object of the convention to adjust. Upon the Alabama claims, as well as all others, this government is content to obtain and most earnestly desires a perfectly fair, equal, and impartial judicial trial and decision. This government has always explicitly stated that it asks no discrimination in favor of the Alabama claims, and can admit of no material discrimination against them in the forms of trial or judgment, but must, on the contrary, have them placed on the same basis as all other claims. This article IV, so far from placing them on an equal footing with the other United States claims and with the British claims, prejudicially discriminates against them in these respects:

1. While the convention provides that the other United States claims and the British claims shall be settled and determined by a majority of the commissioners, this article IV requires entire unanimity of the commissioners for a decision upon any of the Alabama claims.

2. This article IV further discriminates against the Alabama claims in this, that while the choice of an arbitrator or umpire in regard to all other than the Alabama claims is left to be decided by lot in case of a disagreement of the commissioners, this article IV provides that in regard to the Alabama claims the two governments shall definitely agree in the appointment of an arbitrator or umpire.

3. This article IV again discriminates against the Alabama claims in requiring that in regard to those claims the arbitrator or umpire shall be some sovereign or head of a friendly state, while no such limitation is made in regard to any other class of claims.

The present negotiation was undertaken in the hope that the controversy about international claims which has so long existed, and has been attended with so much national feeling on both sides, might be amicably settled and closed by adopting the very simple yet comprehensive principles and forms of reference and adjudication which were adopted with so much success, under circumstances not very dissimilar, by the convention for the adjustment of international claims of February 8, 1853. That convention was proposed by the United States, as a model which had already received the approval of both parties and had the prestige of complete and even felicitous success. That convention of 1853 had no reservations and no preference of, for, against, or concerning claims of any class of citizens or subjects of either nation. A judicial tribunal was constituted by it in a manner perfectly equal, just, and fair, and to that tribunal was confided the duty of hearing all claims of whatever separate classes in

only one and exactly the same manner, and deciding upon them in only one and exactly the same manner. It probably would conduce to no good end to set forth on this occasion the reasons why the Alabama claims, more than any other class of international claims existing between the two countries, are the very claims against which the United States cannot agree to or admit of any prejudicial discrimination. To present those reasons now would be simply to restate arguments which have been continually presented by this department in all the former stages of this controversy, while it is fair to admit that those reasons have been controverted with equal perseverance by her Majesty's department for foreign affairs.

It is not to be understood by these remarks that the United States except against the possible designation of a sovereign or head of a friendly state as arbitrator or umpire in regard to the Alabama claims. On the contrary, the United States would not be unwilling to have so distinguished an arbitrator or umpire agreed upon by the commissioners in any and, indeed, in every case that shall come before them. All that is insisted upon is that the arbitrament of a sovereign or head of a nation shall not be made unnecessary in regard to other United States claims and British claims and yet be made indispensable to the adjustment of the Alabama claims.

Article V provides that in the event of a decision on any of the claims mentioned in the next preceding article (article IV) being arrived at by the arbitrator involving a question of compensation to be paid, then the amount of such compensation shall be referred back to the commissioners for adjudication, and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator appointed by them, or who shall have been determined by lot, according to article I.

I remark upon this article V that no objection will be made to it if it shall be so amended as to adapt it to the general structure of the convention after article IV shall have been stricken out.

Article VI provides that, with regard to the Alabama class of claims, neither government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two governments respecting the questions at issue shall alone be laid before the commissioners, and in the event of their not coming to a unanimous decision, as provided in article IV, then before the arbitrator without argument, written or verbal, and without the production of any further evidence. But the commissioners unanimously, or the arbitrator, shall, however, be at liberty to call for argument or further evidence if they shall deem it necessary.

The United States are obliged to disallow this article in its present form, upon the principle set forth in my remarks upon article IV, and for the reason there given. The article is believed to be superfluous, while the precautions it contains against allowing as full a hearing and examination of the Alabama claims as is allowed to all other American claims and to British claims, would have the mischievous effect of exciting unnecessary distrust in the Senate and among the people of the United States, and it is presumed even among the people of Great Britain. The President confidently hopes that upon reconsideration of the subject her Majesty's government will consent to amend the convention by striking out article VI, or at least by amending it, so that article VI will read as follows:

"In case of every claim the official correspondence which has already taken place between the two governments, respecting the questions at

issue, shall be laid before the commissioners, and in the event of their not coming to a decision thereupon, then before the arbitrator. Either government may also submit further evidence and further argument thereupon, written or verbal."

Article VII provides that the decision of the commissioners or of the arbitrator or umpire, as the case may be, shall be considered by both parties as absolutely final and conclusive, and full effect shall be given to such decisions without any objection or delay whatsoever.

This article VII is approved.

Article VIII provides that no claim arising out of any transaction prior to the 26th of July, 1853, the day of the exchange of the ratifications of the convention of the 8th of February, 1853, shall be admissible under the convention.

This article VIII is approved.

Article IX provides that all sums of money which may be awarded by the commissioners or by the arbitrator or umpire, on account of any claim, shall be paid in coin, or its equivalent, by the one government to the other, as the case may be, within twelve months after the date of the decision, without interest.

In view, however, of possible delays of legislative appropriation in the two countries, the word "twelve" ought to be struck out and the word "eighteen" inserted. Article IX, if so amended, would be accepted.

Article X provides that the high contracting parties engage to consider the result of the proceedings of the commission as a full and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether it shall have been presented to the notice of, made, preferred, or laid before the commission, shall, from and after the conclusion of the proceedings of the convention, be considered and treated as finally settled and barred.

This article X seems unobjectionable and is approved.

Article XI provides that the commissioners shall keep an accurate record, and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them; that the secretary shall be appointed by the principal secretary of state for foreign affairs of her Britannic Majesty, and by the representative of the United States in London, jointly; that each government shall pay the salaries of its own commissioners, and all other expenses, and the contingent expenses of the commission, including the salary of the secretary, shall be defrayed in moieties by the two parties.

I suggest that this article XI shall be amended, first by inserting after the word "commissioners," in the first line, the words, "an arbitrator or umpire;" and second, by striking out the second paragraph entirely and substituting for it the words following: "The secretary shall be appointed by the representative of her Britannic Majesty in Washington, and by the Secretary of State of the United States, jointly." With these amendments this article XI will be satisfactory.

Article XII fixes a period within which the ratifications of the convention shall be exchanged.

This article is unobjectionable and is approved.

I close this dispatch, as you might reasonably expect, with some remarks and directions upon the general subject of the negotiation. It is sincerely hoped that the amendments I have proposed may be allowed by her Majesty's government. It is conceived that these amendments

do not, in fact, change the character of the convention, and that they do not secure to one party, or deprive the other of, any material advantage which the convention allows in its present shape. All that they can accomplish is to relieve the convention of an apparent spirit and tendency to prejudice the largest class of United States claims before the commission and the arbitrator.

In assigning my reasons for requiring the amendments, I have confined myself within the narrowest possible limits, seeking to avoid all unnecessary argument or controversy. You are authorized, however, to say I am of opinion that the amendments proposed are important to recommend the convention to acceptance by the Senate, and approval by the Congress of the United States.

The terms in which you have expressed yourself in your correspondence concerning the convention leave no room to doubt that you have supposed that it would be satisfactory to the United States in its present shape. It is further believed that you may have expressed that opinion to Lord Stanley. Her Majesty's government, disappointed in the expectation thus excited, may possibly be reluctant to continue the negotiation. In that case you are authorized to say that the transaction was conducted on the part of this government by a large use of the cable telegraph; that you were expected by this government to adhere more closely than you have done to the convention of 1853 as a model, and were supposed to be so adhering, while my telegraphic instructions, written under that misconception, were liable to be misunderstood by you as approving the departures you have made from the prescribed model. To this statement you will add the expression of regret on the part of this government that this misunderstanding, which now seems to have been unavoidable, should have been a means of leading her Majesty's government to suppose that articles IV, V, and VI might be expected to obtain the constitutional assent of the government of the United States.

If on receiving this instruction you shall be able to bring the negotiations to a satisfactory conclusion, it will be better to have that conclusion expressed in the form of a protocol rather than of a convention. That form would be preferable over the form of a convention, in view of the discussions which any settlement of the subject might be expected to undergo in the Senate and among the people of the United States. It is not intended, however, by this remark to indicate any distrust of the acceptance of the convention when amended as herein proposed. On the contrary, there is good reason to believe that such a settlement would be as promptly approved as its influence upon the relations of the two countries would be immediately felt and appreciated.

It remains only to say that, in view of the present situation of the claims question, it is expedient to let the satisfactory settlement of the naturalization question and the San Juan question rest in protocol. On the other hand, should her Majesty's government accept the amendments of the claims convention herein proposed, you are authorized in that case to reduce the three or either two of these agreements to the forms of distinct conventions, and to sign and transmit them at once to this department to be laid before the President for ratification.

To facilitate your understanding of this dispatch, I give you herewith a copy of the convention as it would stand when amended as is herein proposed.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

*Convention between Great Britain and the United States of America for the settlement of all outstanding claims. Signed at London, November 10, 1868.*

[The amendments by the government of the United States to this protocol are indicated as follows: The words added are in italics. Those stricken out are placed between brackets.]

Whereas claims have at various times since the exchange of the ratifications of the convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the government of her Britannic Majesty on the part of citizens of the United States, and upon the government of the United States on the part of subjects of her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsists between the two countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon, that is to say: her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable Edward Henry Stanley, commonly called Lord Stanley, a member of her Britannic Majesty's most honorable privy council, a member of Parliament, her principal secretary of state for foreign affairs; and the President of the United States of America, Reverdy Johnson, esquire, envoy extraordinary and minister plenipotentiary from the United States to her Britannic Majesty; who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

The high contracting parties agree that all claims on the part of subjects of her Britannic Majesty upon the government of the United States, and all claims on the part of citizens of the United States upon the government of her Britannic Majesty, which may have been presented to either government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in article III of this convention, whether or not arising out of the late civil war in the United States, shall be referred to four commissioners, to be appointed in the following manner, that is to say: two commissioners shall be named by her Britannic Majesty, and two by the President, *by and with the advice and consent of the Senate*, of the United States. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act as such, her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commissioners so named shall meet at [London] *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the governments of her Britannic Majesty and of the United States, respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision [save as otherwise provided in article IV of this convention] shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the commissioners on either side shall name a person as arbitrator or umpire; and in each and every case in which the commissioners may not be able to come to a decision, the commissioners shall determine by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

ARTICLE II.

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government, as counsel or agent for such government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal.

The decision of the commissioners, and of the arbitrator or umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

[The provisions of this article shall, however, be subject to the special arrangements made by articles IV, V, and VI of this convention, respecting the claims which form the subject of those articles, and which shall be dealt with as directed in those articles.]

ARTICLE III.

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire in the event of the commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the commissioners, or for the arbitrator or umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this convention.

ARTICLE IV.

The commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two governments as the "Alabama" claims; [but before any of such claims is taken into consideration by them, the two high contracting parties shall fix upon some sovereign or head of a friendly state as an arbitrator in respect of such claims, to whom such class of claims shall be referred in case the commissioners shall be unable to come to an unanimous decision upon the same.]

NOTE.—Omit the part in brackets, or, if preferred, cancel the whole of article IV.

ARTICLE V.

In the event of a decision on any of the claims mentioned in the next preceding article being arrived at by the arbitrator, involving a question of compensation to be paid, the amount of such compensation shall be referred back to the commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator appointed by them, or who shall have been determined by lot according to the provision of article I.

NOTE.—If article IV is amended and retained as proposed, article V may stand without amendment. If article IV is canceled entirely, then amend article V, line one by striking out the words "mentioned in the next preceding article."

ARTICLE VI.

With regard to the before-mentioned "Alabama" class of claims, neither government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place

between the two governments respecting the questions at issue shall alone be laid before the commissioners, and (in the event of their not coming to an unanimous decision as provided in article IV) then before the arbitrator, without argument written or verbal, and without the production of any further evidence.

The commissioners unanimously, or the arbitrator, shall, however, be at liberty to call for argument or further evidence, if they or he shall deem it necessary.

NOTE.—Either cancel the whole of article VI, or substitute the following:

"In case of every claim, the official correspondence which has taken place between the two governments respecting the questions at issue shall be laid before the commissioners, and, in the event of their not coming to a decision thereupon, then before the arbitrator. Either government may also submit further evidence and further argument thereupon, written or verbal."

ARTICLE VII.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States, hereby solemnly and sincerely engage to consider the decision of the commissioners, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by them or him respectively, and to give full effect to such decisions without any objection or delay whatsoever.

ARTICLE VIII.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the convention of the 8th of February, 1853, shall be admissible under this convention.

ARTICLE IX.

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin or its equivalent by the one government to the other, as the case may be, within [twelve] *eighteen* months after the date of the decision, without interest.

ARTICLE X.

The high contracting parties engage to consider the result of the proceedings of this commission as a full and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled and barred.

ARTICLE XI.

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The secretary shall be appointed by the [principal secretary of state for foreign affairs of her Britannic Majesty, and by the representative of the United States in London, jointly] *representative of her Britannic Majesty at Washington and the Secretary of State of the United States, jointly.*

Each government shall pay the salaries of its own commissioners. All other expenses, and the contingent expenses of the commission, including the salary of the secretary, shall be defrayed in moieties by the two parties.

ARTICLE XII.

The present convention shall be ratified by her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the 10th day of November, in the year of our Lord 1868.

*Mr. Johnson to Mr. Seward.*

No. 65.] LEGATION OF THE UNITED STATES,
*London, November* 28, 1868.

SIR: I have the honor to acknowledge the receipt of your telegraphic dispatch of the 26th instant.

The San Juan protocol will of course be left as it is.

Why you are of the opinion that the claims convention is "useless unless amended" you do not state, and I am unable to conjecture. I have just had an interview at the foreign office with Lord Stanley, who read me a dispatch from her Majesty's minister at Washington, which stated that it was understood that all the cabinet disapprove of it, and had said that it was contrary to instructions. This latter statement puzzles me yet more. If I understand your original, and all the subsequent instructions, whether by telegraph or otherwise, the convention conforms substantially with them. By those of the 20th of July I considered myself authorized, if this government would adjust, as desired, the naturalization and San Juan controversies, to settle the claims controversy by a convention on the model of that of February 8, 1853. And as the two former were satisfactorily arranged, I deemed myself not only authorized but bound to adopt the course that I did in relation to the latter.

The convention is in substance the same with the one of 1853. The only difference is in the articles relating to the Alabama claims, in which it is provided that the head of some foreign government is to be the arbitrator to decide them in the event that the commissioners prove unable to come to a unanimous decision; and that he is to be selected by the two governments previous to their consideration by the commissioners. In all other respects the two conventions are nearly identical.

By your dispatch No. 20, of the 23d of September, I was expressly authorized, as I understood, to agree to such a convention whenever I should become satisfied that the naturalization and San Juan questions were or would be satisfactorily arranged. It is true that in this dispatch the arrangement was not to be obligatory until those of the two former were finally settled. The same condition was annexed to my powers as to the San Juan matter, and I made the protocol in regard to that dependent upon the final and satisfactory settlement of the naturalization question. This provision is not inserted in the claims convention, not because her Majesty's government had or would object to it, but because the Senate might properly decline to ratify it until that was done, and in this effect your object. And such must have been the view of Lord Stanley, as I made him acquainted with this limitation of my authority. If, however, the signing of the convention without this limitation is esteemed a disregard of instructions, it is but literally so, and cannot, in any way that I can conceive, render the convention "useless" should it be ratified.

By your telegraphic dispatch of the 11th of November I was told, in so many words, that if I could get Washington substituted for London, as the place of meeting of the commission, "all will be right." And, as you have been advised, I did obtain this substitution.

That the naturalization question will be settled according to the views of our government is certain, whether this government remains in office or not. I know this not only from the public sentiment of the country, but from personal intercourse with some of the leading statesmen who, it is understood, will constitute a part of the government should there be a change.

Awaiting the receipt of the dispatches to which your telegram of the 26th refers,

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 70.] LEGATION OF THE UNITED STATES,
*London, December* 4, 1868.

SIR: Some time since I received the inclosed letter from Mr. Augustine E. Costello, who is now undergoing imprisonment at the convict establishment at Chatham, for treason-felony. I replied to it on the 4th of November, and stated that I should not fail to send it to Washington as requested.

At present I do not offer any remarks upon this and similar cases, but as official copies of the trials of Messrs. Warren, Halpin, Costello, and McCafferty have recently reached me, I trust soon to be able to send you brief but faithful summaries of these, with some observations upon each case.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Costello to Mr. Johnson.*

CONVICT ESTABLISHMENT, CHATHAM.

Convicts are permitted to write one letter on reception, and also at intervals of three, four, or six months, according to the class they may be in. They may also receive one letter (prepaid) at the above-named periods. Matters of private importance to a convict may be communicated at any time by letter (prepaid) to the governor, who will inform the convict thereof if expedient. In case of misconduct, the privilege of receiving or writing a letter may be forfeited for a time. All letters of an improper or idle tendency, either to or from convicts, or containing slang or other objectionable expressions, will be suppressed. The permission to write and receive letters is given to the convicts for the purpose of enabling them to keep up a connection with their respectable friends, and not that they may hear the news of the day. All letters are read by the governor or chaplain, and must be legibly written on the ruled lines, and not crossed. Neither clothes nor any other articles are allowed to be received at the prison for the use of convicts. Persons attempting to introduce any article to or for a convict are liable to fine or imprisonment, and the convict concerned is liable to be severely punished. Convicts are not allowed to have money, books, or postage-stamps sent to them while in prison.

A visit of 20 minutes' duration allowed every three, four, or six months, according to class, between the hours of 10 a. m. and 4 p. m.; not on Sundays.

CHATHAM PUBLIC WORKS PRISON.

N. B.—The convict's writing to be confined to the ruled lines of these two pages. In writing to the convict direct to No. 9824, Augustin Costello.

OCTOBER 10, 1868.

SIR: I presume I may be allowed to make a few inquiries which I deem important for me to know. Being cramped in paper I must, necessarily, be brief, therefore I hope my few pointed remarks will not appear harsh or rude. Thus divested of all rhetorical flourishes, I would, first, respectfully inquire if you, sir, have received any instructions in my case; and if so, what those instructions are? Secondly, I would ask if (what a strange if!) I am an American citizen; if so, it is a sublime privilege. Thirdly, if the United States government has taken any action in my case, and what the likelihoods are of an eventual release, and when? I will not tie you to a month or two; I only wish to know the "thereabouts;" I am a long time waiting, and am only apprehensive

that the beginning of the end has not yet come. In the worst phases of life the inevitable is more endurable than suspense. Judging from the present as well as the past, my future is not very cheering; but of course events of importance may be transpiring in the outside world which, if known to me, might make me think differently. I presume you are aware, sir, that I am allowed to know absolutely nothing on this or any other subject. But, as I am permitted to write a letter to my friends once in six months, I thought it would not be a bad idea to write to you instead, and learn, if possible, what the prospects are of being rescued from this life-in-death existence. I thought to have written you a special letter, so as not to interfere with my domestic letters, but the director, for some reasons best known to himself, denied me that privilege.

It may be, in the whirl of more grave and important events, that the United States government has failed to meet the issue raised in my case; or, as I have been conjecturing, the republic may not wish to disturb the amicable (!) relations existing with the mother country. Or, again, know-nothingism may be, as formerly, in the ascendency, and hence the startling anomaly of one-third of the American population proved to be, according to the letter and the spirit of English law, British subjects. Truly we may exclaim with Joad: "Was ever time in wonders richer." If I am to be condemned to penal servitude for enjoying liberty's first-born freedom of speech; if words, or even acts of mine, while in the United States, can make me amenable to British law, then I boldly assert that liberty is not to be found beneath the stars and stripes, and I brand that act of the legislature that conferred on me all the responsibilities, but none of the advantages, of an American citizen, as an insult and a mockery. But let it be known, to whom it may concern, that degrading and miserable as my present position is, I envy not that happiness of my fellow-citizens who are placed but a step higher, on the political ladder, than the negro under the old *regime*. I am not very pleasantly situated for letter-writing, neither am I sure that this letter will reach you. I should like to give you some idea of prison discipline, but that is an interdicted subject—*and no wonder*. I would request that a copy, or, what is better, the original, of this letter be sent to the President.

Hoping to receive a prompt and explicit reply, I am, sir, your most obedient servant,

AUG'T ELLICOTT COSTELLO.

Hon. REVERDY JOHNSON,
*United States Minister, London.*

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## *Mr. Johnson to Mr. Seward.*

No. 72.] LEGATION OF THE UNITED STATES,
*London, December* 5, 1868.

SIR: I have the honor to acknowledge the receipt of your cipher cable dispatch of the 27th of November, which reached me on the 29th at about 12 noon.

I had an interview with Lord Stanley early on the following morning, and found he had received one in substance the same from Mr. Thornton.

In regard to most of the amendments suggested by you, he had no objection. Two of them, indeed, we had already formally agreed to. One of them substituting Washington for London as the place of meeting of the commission, and the other, incidental to that, giving to the British minister at Washington and our Secretary of State, instead of the United States minister here and the foreign secretary of this government, the authority to appoint the secretary.

His lordship expressed, however, no willingness to change the mode of appointing the arbitrator who is to decide the question of the liability of this government for the Alabama claims. He did not, however, lead me to believe that his objection to the change might not be yielded. His view is, and was from the first, that the questions involved in these demands were of such a nature that it would be better for the two governments not only for the present, but for the future, that they should be decided by some friendly government. He thinks that in the contingency that the commissioners should not unanimously agree, the judgment of such an arbitrator would be more satisfactory to the two coun-

tries and would have more influence in settling the principle upon which the demands depend than the decision of an individual arbitrator, however eminent he might be. I confess that these considerations had much weight with me, and led me to agree to the provision which you desire to have modified. And as there was nothing in your instructions, or in the convention of the 8th of February, 1853, which I was told was to be the "model" of one I might sign, in any way inconsistent with such a provision, there was nothing to restrain me from exercising my own judgment. The present government, as you doubtless already know, have tendered their resignations, and are now only holding office until their successors shall be appointed. Who these will all probably be is not yet made public. But it is understood that Mr. Gladstone will be the premier and Earl Clarendon the foreign secretary. My negotiations must be suspended until he is in office. I shall lose no time when that happens to renew them with him, and I hope to be able to reach a satisfactory result. Whether this will be done by obtaining the change as to the appointment of the arbitrator to decide the Alabama claims exactly in the manner you propose, or in some substantially similar manner, I do not certainly know. But I believe I shall be able to succeed by one of the two modes. I have every reason to think (indeed I know from several conversations with him before the resignation of the late ministry) that Lord Clarendon entertains a sincere friendship for our government, and desires earnestly that every controversy between the two countries shall be speedily and amicably adjusted.

I have the honor to remain, with high regard, your obedient servant.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

No. 49.] DEPARTMENT OF STATE,
*Washington, December 7*, 1868.

SIR: Your dispatch of the 23d of November, No. 61, has been received: it is accompanied by an "additional article" which on the 23d of November you signed with Lord Stanley, to have the same force and effect as if it had been inserted word for word in the convention of claims which you signed with his lordship on the 10th of November last. By this additional article Washington is substituted for London as the place for the meeting of the convention, and the provision for the appointment of a secretary has been changed so as to adapt it to that amendment.

This transaction on your part is in accordance with the suggestions of this department, and is approved. In regard to the whole subject, we are now waiting for the answer of her Majesty's government to the propositions which you have been instructed to submit for further amendment of that convention. The examinations and reflections which have been bestowed upon the matter of the claims convention have fully confirmed the opinion expressed in that instruction, that the further amendments thus proposed are necessary to secure the approval of the convention by the Senate of the United States.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

*Mr. Seward to Mr. Johnson.*

No. 52.] DEPARTMENT OF STATE,
*Washington, December* 14, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 28th of November, No. 65. Before the date of the present writing you will have received a full explanation of the President's views upon the subject which you have now discussed. It only remains for me, therefore, to say that the indications here leave no room to doubt that the views submitted by me are entirely in accordance with the expectations of the country.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

No. 80.] LEGATION OF THE UNITED STATES,
*London, December* 16, 1868.

SIR: I am unable as yet to report satisfactory progress in the matter of the claims convention. I had an interview at the foreign office with Lord Clarendon yesterday, by appointment, in regard to it. His lordship had not had time during the period of his short accession to office to make himself acquainted with the exact state of the negotiation. I found him, however, most desirous to bring it to a satisfactory conclusion; and I do not anticipate much difficulty in our accomplishing it. I explained to his lordship the terms of the convention signed by Lord Stanley and myself, and your objections to some of them, with the reasons upon which they were placed. As was the case with Lord Stanley, his lordship told me that he thought that from the character of the questions upon which the liability of this country for the Alabama claims rested, it was better that the arbitrator who should decide them, if the commissioners fail to agree, should be the head of some foreign friendly government. I believe, however, that if he shall not waive this view we may be able to devise a plan by which it can be gratified without conflicting with the objections you have in that particular to the present convention.

His lordship told me that he would at the earliest period examine the whole matter and appoint an early day for another meeting.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*
[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, December* 18, 1868.

Fourth, fifth, and sixth articles omitted. In place: If commissioners, or two of them, be unable to decide any claim, and think, from its nature,

it should be left to arbitration of foreign state, they so to report to their respective governments, who shall, within six months, agree upon some sovereign or head of a friendly state.

Other amendments agreed to. Will the one above be approved? Answer.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 82.] LEGATION OF THE UNITED STATES,
*London, December* 19, 1868.

SIR: Until I receive an answer to my cable cipher dispatch of yesterday, I do not deem it proper to proceed further with the negotiation in relation to the claims convention. If your answer shall approve of my suggestion as to an article in lieu of the fourth, fifth, and sixth articles of the convention signed by Lord Stanley and myself, I apprehend no difficulty in bringing the matter to a speedy and satisfactory conclusion. Lord Clarendon is as anxious for such a result as we are.

The moment I hear from you by cable I will renew the negotiation, and if necessary advise you of its progress by the same mode.

I have the honor to remain, with high regard, your obedient servant,
REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, December* 20, 1868.

Cipher telegram received.

We definitively propose what follows on claims:

Substitute protocol for convention; but this not indispensable. Protocol to be signed here, not London; but this not indispensable. Date to be day of signature.

Article I, paragraph first—Amend, "by and with advice and consent of the Senate."

Article I, paragraph second—Instead of "London," "Washington."

Article I, paragraph third—Substitute following: "The commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. In the case of any and every claim, the arbitrator or umpire may be the head of a friendly sovereign state or nation. In naming or agreeing upon an arbitrator or umpire, the commissioners on each side may refer themselves to their own government for instructions; and the contracting parties will, in such case, within six months after notice of such reference shall have been given, decide upon such arbitrator or umpire, and instruct their commissioners accordingly. If it shall happen, nevertheless, that at the expiration of the period of six months before named no person, the head of a sovereign state or otherwise, has been agreed upon as arbitrator or umpire, then and in that case the commissioners

on each side shall name a person, the head of a sovereign state, or otherwise, as arbitrator or umpire. And in each and every case in which the commissioners shall not be able to come to a decision, they shall determine by lot which of any two persons so named shall be the arbitrator or umpire in that particular case, the person first so drawn by lot being regarded as the choice of the commissioners. The person or persons so to be chosen as arbitrator or umpire, if not the head of a sovereign state or nation, shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid."

Article II—Omit last paragraph.

Strike out articles IV, V, and VI.

Article IX—"Eighteen" months instead of "twelve."

Article XI—Amend as before proposed.

Thornton concurs in expediency of signing here. If signed here, all three protocols go to Senate January 5.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Johnson to Mr. Seward.*

No. 86.] LEGATION OF THE UNITED STATES,
*London, December* 23, 1868.

SIR: After deciphering (and, as I believe, correctly) your cipher cable dispatch of the 20th, received on the 21st instant, at 12.20 noon, I had an interview with Lord Clarendon at his house, on yesterday morning. I found that he had received by cable a dispatch, substantially the same, from Mr. Thornton. After an interview which lasted an hour, I left him under the impression that he would agree substantially to that part of the amendment suggested by you to the first article of the convention signed by Lord Stanley and myself on the 10th of November, which provides that for the paragraph you quote there be substituted the following:

In the case of any and every claim, the arbitrator or umpire may be the head of a friendly sovereign state or nation. In naming or agreeing upon an arbitrator or umpire, the commissioners on each side may refer themselves to their own government for instructions, and the contracting parties will in such case, within six months after notice of such reference shall have been given, decide upon such arbitrator or umpire, and instruct their commissioners accordingly.

But he strongly objects, and I do not believe that he will yield the objection, to that portion of your proposed amendment which provides that "If it shall happen, nevertheless, that at the expiration of the period of six months before named no person, the head of a sovereign state or otherwise, has been agreed upon as arbitrator or umpire, then and in that case the commissioners on each side shall name a person, the head of a sovereign state or otherwise," &c. The grounds of his objections are, first, that it would be to call in question the good faith of the two governments to suppose that if the choice of an arbitrator was referred to them in the manner suggested in the first part of your amendment, that they would not agree upon one; and, second, that the com-

missioners being authorized to appoint as arbitrator the head of a foreign state, he thinks, and he is probably right, would be deemed so discourteous that no head of a foreign government so selected would agree to serve. His lordship's long diplomatic experience gives to his opinions upon all such subjects great weight. I have no doubt that the contingent provision you suggest is altogether unnecessary, as I am satisfied that his lordship and yourself would very promptly agree upon an arbitrator.

The other amendments you propose I believe he will agree to, except that of changing the convention into a protocol, and the signing it in Washington instead of London.

In order to make the obligation of the two governments to appoint an arbitrator, if the appointment is referred to them, the more absolute, I suggested to his lordship, and he concurred in it, the insertion of the words "shall and" before the word "will," in that part of your amendment, so as to make it read thus: "The contracting parties shall and will in such case, within six months," &c., make the appointment. It cannot for a moment be believed that, if this be done, either government would hesitate to comply with so imperative a stipulation.

If, upon further reflection, with these objections of Lord Clarendon before you, you agree to waive that part of your amendment to which they refer, it is very advisable that you telegraph to me at once, as I think that will enable me to bring the negotiation to a speedy and satisfactory termination.

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

[No. 87. LEGATION OF THE UNITED STATES,
*London, December* 24, 1868.

SIR: I have just had another interview by appointment with Lord Clarendon, at his house, upon the subject of the claims convention. Having before left with him a copy of the amendment proposed in your last cipher telegram as a substitute for the fourth and other articles of the convention signed by Lord Stanley and myself relative to the Alabama claims, he told me that he brought it before the cabinet at a meeting at which all the members were present on Tuesday last, and that the result was this: They refuse to convert the convention into a protocol, and to have it signed at Washington instead of London. They think that this would be disrespectful to the late government, and wholly unnecessary. They concurred with his lordship in thinking that the provision in your amendment which looks to the contingency that the two governments might not agree upon the head of some foreign friendly nation as an arbitrator, if the appointment was referred to them, would be to call in question their good faith; and also concurred with him that the appointment of such an arbitrator by the commissioners would be esteemed so discourteous that no head of a foreign government so appointed would consent to act, and that thereby the convention would be rendered futile.

He gave me reason to understand that all the other amendments proposed by you would be adopted, and that they would also agree so to

modify the signed convention as to clear it of the objections stated in your dispatch to me, No. 47, of the 27th of November, to the provisions it contains that they discriminate between the Alabama claims and the other claims to the disadvantage of the Alabama. This I understand will be proposed by a stipulation which shall provide that if, in the case of any claim by either government upon the other, the commissioners, or any two of them, shall desire to have the question of liability referred to the head of a friendly foreign state; and the two governments, when so advised, will agree to select such an arbitrator.

He told me that the cabinet was unanimous that a provision of this kind would be no departure from the convention of February, 1853, but on the contrary almost a literal compliance with it, and that they hoped that you upon reflection would agree in this view.

His lordship also informed me that he proposed to send by the mail which will take this, a dispatch to Mr. Thornton, in which he would discuss the entire subject, and which of course Mr. Thornton will be authorized to lay before you. I am perfectly satisfied that every member of the cabinet is most anxious to bring the controversy in regard to the Alabama claims to a satisfactory termination, and I trust, therefore, that you will be able to concur substantially in the propositions which will be made in the dispatch to Mr. Thornton.

I can get the Alabama claims specifically mentioned as among the claims to be submitted to the commissioners and this I think most important.

Referring you to Lord Clarendon's note to Mr. Thornton, I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

No. 56.] DEPARTMENT OF STATE,
*Washington, December* 31, 1868.

SIR: Your dispatch of the 16th of December, No. 80, which concerns the negotiations upon claims, is before me. The telegraphic correspondence between yourself and the department which has intervened has superseded the necessity for replying to your present communication. We are now awaiting your answer to my telegraphic instruction of the 20th instant.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Johnson.*

No. 58.] DEPARTMENT OF STATE,
*Washington, January* 2, 1869.

SIR: Your dispatch of the 19th of December last, No. 82, has been received. In that paper you express an opinion that it would not be proper to proceed further with the negotiation in relation to the claims convention until you should have received an answer to your cable cipher of the 18th of that month. You observe, further, that if the suggestion which was contained in that cable dispatch of a new article in lieu of

the 4th, 5th, and 6th articles of the convention, signed by Lord Stanley and yourself, should be approved, that in that case you apprehend no difficulty in bringing the matter to a speedy and satisfactory conclusion. You assure me, further, that at the moment when you shall hear from me by cable you will renew the negotiation, and, if necessary, advise me of its progress by the same mode.

An answer to your cable dispatch which I have thus mentioned was transmitted by telegraph, under the President's direction, on the 20th of December. In that answer I submitted some modification of the suggestion which you had made, of such a character as to make it at once more definite and more accordant with the views which prevail in this government. No reply to that answer has yet been received by cable or otherwise. On the other hand, Mr. Thornton confidentially informs me that on the 25th of December he received a dispatch from Lord Clarendon, in which he stated that he would, on the next day, transmit to Mr. Thornton, by mail, a power and a draught of a convention which he trusted would be satisfactory to the United States.

I do not doubt that this proceeding on the part of Lord Clarendon is based upon the renewal of the negotiations which you promised, and that in withholding information of it from the cable you have been governed by prudential considerations, which are easily conceived. I have to thank you for the perseverance and fidelity with which you have attended to the instructions of this department.

We await now the arrival of Lord Clarendon's promised communication, which may be expected during the next week.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

No. 96.] LEGATION OF THE UNITED STATES,
*London, January* 9, 1869.

SIR: Until I hear from you in answer to my dispatches Nos. 86 and 87. of the dates respectively of the 23d and 24th of December, I can make no further progress with the claims question. If your reply shall substantially comply with the suggestions of Lord Clarendon as to the mode of settling the Alabama claims, I have no doubt that I shall be able to conclude an arrangement which will be satisfactory to the President and yourself and the Senate, at so early a day that the controversy may be finally closed during the present session of Congress.

Awaiting your next dispatches upon the subject, I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, January* 11, 1869.

Clarendon's draught considered. Article I, sixth line after "Majesty," insert "including the so-called Alabama claims."

Article II, substitute "Nevertheless, if the commissioners or any two of them shall think it desirable that a sovereign or head of a friendly state should be arbitrator or umpire in case of any claims," for the words in six first lines, second paragraph.

Article II, third paragraph, strike out the new italicized provision; superfluous and tends to cavil. Residue of draft convention is satisfactory.

If Clarendon agrees, he ought telegraph Thornton to sign or you sign immediately. Same as to San Juan convention, which is satisfactory. Sign in both cases, or let both matters be sent here, and telegraph so both conventions or agreed copies go to the Senate immediately.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Johnson.*

No. 59.] DEPARTMENT OF STATE,
*Washington, January* 12, 1869.

SIR: Owing to the delay of the steamer, your dispatches of the 23d of December, No. 86, and 24th of December, No. 87, both of which relate to the claims convention, did not reach the department till yesterday, the 11th instant. At the same time Mr. Thornton placed in my hands a copy of a dispatch* which Lord Clarendon addressed to him on the same subject on the 24th of December. The President's directions were immediately taken upon the subject, and the result was announced to you last night by a telegraphic dispatch† a copy of which is hereunto appended. For manifest reasons the propositions submitted by me in that cable dispatch were almost entirely unaccompanied by argument or explanation. On the other hand, it is expected and hoped that her Majesty's government will give us their reply by cable before this or any other communication from this department transmitted by the mail can reach your legation. If that expectation shall be realized, what I now write will be useful only for ultimate reference.

We have adopted the draft of convention between Great Britain and the United States of America for the settlement of all outstanding claims, which has been submitted to us in a printed paper by her Majesty's government, under the date of the 22d of December, with some suggested amendments on our part, which do not materially change the character of that plan, as the plan itself does not in absolutely essential particulars vary from the project which was submitted by me in my telegraphic dispatch of the 20th of December last.

The first of these amendments consists in inserting in the first article an express recognition of the so-called Alabama claims in the definition of claims which are to be settled by the convention. This amendment simply proposes to guard against a possible ground of cavil, however unreasonable, might be used to excite distrust of the convention.

The second amendment proposed consists in striking out in the second paragraph of article II these words: "If, however, it shall appear to the commissioners, or any two of them, that, from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a special arbitrator or umpire shall be named,

* For Lord Clarendon's dispatch of December 24, and its accompaniment the protocol, which is amended by this instruction, see correspondence with British legation in this series.

† For inclosure see dispatch next preceding this.

to whose decision such claim shall be referred," and insert in lieu thereof these words: "Nevertheless, if the commissioners, or any two of them, shall think it desirable that a sovereign or head of a friendly state should be arbitrator or umpire in case of any claim."

Thus amended, the paragraph will read: "Nevertheless, if the commissioners, or any two of them, shall think it desirable that a sovereign or head of a friendly state should be arbitrator or umpire in case of any claim, the commissioners shall report to that effect to their respective governments, who shall thereupon, within six months, agree upon some sovereign or head of a friendly state, who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two governments, and the other written documents or statements which may have been presented to the commissioners in respect of such claims."

The reasons for this proposed amendment are that the phraseology, being more general, is less open to adverse criticism, insomuch as the amendment avoids all allusion to claims of any special or distinct class, and avoids the description of the arbitrator or umpire, when he is the sovereign or head of a friendly state, as a special arbitrator or umpire.

Lord Clarendon's argument against the provision which I have heretofore proposed for an alternative designation of the arbitrator or umpire, in case the two governments shall fail to agree within six months, is not satisfactory; because, without some such provision, the convention may possibly fail of effect after its ratification. On the other hand, we deem the convention, in the form which we have now accepted it, more satisfactory than an entire failure of the negotiation.

The only further amendment which we have proposed is to strike out Lord Clarendon's new proposition at the close of the third paragraph of article II, which is contained in the words, "The decision of the arbitrator or umpire on any particular claim so referred to him shall rule any other claims of the same class."

This provision is deemed superfluous because there can be no reasonable ground to apprehend that an umpire who should have fairly and fully considered and decided a claim upon its merits, would make a contrary decision upon another claim of precisely the same character and merits. The provision would open the ground for cavil that one claim might be prejudiced by previous decision of the umpire made upon another claim materially dissimilar in character and merits.

I trust it is hardly necessary to say, at this late stage of the negotiation, that in my opinion the success of the convention depends not exclusively upon the nature of its provisions, but depends very much also upon the tone, temper, and spirit which pervade it.

The project which Lord Clarendon has submitted, of alterations and additions to convert the protocol on the subject of the San Juan question into a treaty, has been considered and is accepted.

In case of Lord Clarendon's agreement to our present propositions on the claims convention, you are then authorized to sign the two conventions, and announce that fact to me by telegraph, or to assure Lord Clarendon that they will be promptly signed here if instructions shall be given to Mr. Thornton for that purpose. Our object is to submit these two conventions, either the originals or copies, together with the naturalization protocol, to the Senate of the United States as soon as the two forms shall be completed, and all at one and the same time.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.—Extract.]

LEGATION OF THE UNITED STATES,
*London, January* 12, 1869.

Telegram received. Have since intelligence from Clarendon, and think all will be right. * * * *

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 98.] LEGATION OF THE UNITED STATES,
*London, January* 13, 1869.

SIR: My reply by cable to your cable dispatch of the 11th instant, (which you have no doubt received,) advised you that I thought that Lord Clarendon would agree to the amendments to the claims convention which you suggest. This impression is now strengthened by his having sent to me a draught of the convention with such amendments inserted.

But as the prime minister is not in London, and his lordship can only finally act upon the subject after consultation with him, the negotiation must await that event. He tells me, however, that this will only cause a delay of a day or two, and that he hopes to be able to close the matter in time to transmit the convention by the mail of Saturday next, the 16th instant.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, January* 14, 1869.

Conventions signed as instructed. Go Saturday.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Johnson.*

[Telegram per cable.]

DEPARTMENT OF STATE,
*Washington, January* 14, 1869.

Give us at once dates of both conventions signed, so that we may complete copies for the Senate.

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

*Mr. Johnson to Mr. Seward.*

[Telegram per cable.]

LEGATION OF THE UNITED STATES,
*London, January* 15, 1869.

Both conventions signed yesterday, 14th instant. When ratified, telegraph.

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 100.] LEGATION OF THE UNITED STATES,
*London, January* 15, 1869.

SIR: My cable dispatches of yesterday and to-day have advised you that Lord Clarendon and myself have signed a convention for the settlement by arbitration of the northwest boundary controversy, and another for the adjustment by commission and arbitration of the claims controversy, especially including the class known as the Alabama claims. They were both signed at the foreign office yesterday, the 14th instant, between two and three o'clock p. m. I forward them with this dispatch.

The first differs only from the protocol on the same subject, of the 17th of October last, and the supplement of the 10th of November, in the insertion of such provisions as became necessary by their conversion into a convention.

This conversion was done by me under the authority of your cable dispatches of the 20th of December and 11th of January last. The provisions referred to are such as have been incorporated in all previous conventions of the same kind. The only alteration that I insisted upon in the draught to which your dispatch of the 11th of January refers, was to strike out the word "either" in the 6th article, so as to prevent the arbitrator from considering the question submitted to him in the presence of the agent of one of the governments whilst the agent of the other was absent. The reason for this change you will readily appreciate. But for it the arbitrator might act upon statements or arguments presented by one of the agents, not only without an opportunity being offered to the other to reply, but without his knowing what they were. When I explained to Lord Clarendon that this might be its operation, he readily assented to my suggestion; and the change, as you will see, was made.

In regard to the claims convention, all that is necessary for me to state is that it accords exactly with the instructions contained in your cable dispatch of the 11th of January. That my reading of that dispatch was correct I was confirmed in by a dispatch from Mr. Thornton, of the same date, which his lordship was kind enough to let me see.

As this convention does not at all differ from the convention of the 8th of February, 1853, except that it particularly mentions the Alabama class of claims as included within its provisions, I take for granted that it will meet the approval of the President and the Senate.

The operation of the convention of the 8th of February, 1853, was a just and satisfactory adjustment of all the then existing claims which

the citizens of either government had upon the other. As far as an opinion can be formed on such a subject, in advance, I have no doubt that the Alabama claims will be realized under this convention.

This government have yielded, in regard to these claims, two grounds heretofore positively assumed by them. First, during the period that Lord Russell was in the foreign office, that they would not refer to arbitration at all our demand in regard to them; and second, during the administration of that office by Lord Stanley, that they would not so refer the question of the right of this government to have recognized the late confederates as belligerents. Both questions, by the conventions just signed, will be before the commissioners, and, on their failure to agree, before the arbitrator.

I have reason to believe that the abandonment of the grounds originally taken, to which I have referred, has been owing, in a great measure, to the growing friendly feeling for the United States, which has been so strongly exhibited since my arrival in this country. Anticipating that that would be its effect, I determined to lose no time in cultivating such a feeling, whilst never forgetting scrupulously to regard the rights and honor of our country. This has been my sole motive in the speeches which I have delivered since reaching England.

The existence of such a feeling I also deemed essential to the interest of both countries.

It is proper that I should add, in conclusion, that both Lord Stanley and Lord Clarendon yielded a very ready and cheerful assent to our proposition to submit all the questions involved in the Alabama claims, not even having expressed a desire during the negotiations to exclude any one of them; and in this I am satisfied (as they must be) that they but conformed to the public sentiment of the nation, and to their own wishes.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Convention between Great Britain and the United States of America for the settlement of all outstanding claims.—Signed at London, January* 14, 1869.

Whereas claims have, at various times since the exchange of the ratifications of the convention between the United States of America and Great Britain, signed at London on the 8th of February, 1853, been made upon the government of the United States on the part of subjects of her Britannic Majesty, and upon the government of her Britannic Majesty on the part of citizens of the United States; and whereas some of such claims are still pending and remain unsettled, the President of the United States of America, and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon, that is to say:

The President of the United States of America, Reverdy Johnson, esq., envoy extraordinary and minister plenipotentiary from the United States to her Britannic Majesty;

And her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable George William Frederick, earl of Clarendon, Baron Hyde of Hindon, a peer of the United Kingdom, a member of her Britannic Majesty's most honorable privy council, knight of the most noble Order of the Garter, knight Grand Cross of the most honorable Order of the Bath, her Britannic Majesty's principal secretary of state for foreign affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

The high contracting parties agree that all claims on the part of citizens of the United States upon the government of her Britannic Majesty, including the so-called Alabama claims, and all claims on the part of subjects of her Britannic Majesty upon the government of the United States, which may have been presented to either government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the convention concluded between the United States of America and Great Britain, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in article III of this convention, whether or not arising out of the late civil war in the United States, shall be referred to four commissioners, to be appointed in the following manner, that is to say: two commissioners shall be named by the President of the United States, by and with the advice and consent of the Senate, and two by her Britannic Majesty. In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or declining or ceasing to act as such, the President of the United States or her Britannic Majesty as the case may be, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commisisioners so named shall meet at Washington at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the governments of the United States and of her Britannic Majesty, respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some person to act as an abitrator or umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the commissioners on either side shall name a person as arbitrator or umpire; and in each and every case in which the commissioners may not be able to come to a decision, the commissioners shall determine by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

ARTICLE II.

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf their respective governments. The official correspondence which has taken place between the two governments respecting any claims shall be laid before the commissioners, and they shall moreover, be bound to receive and peruse all other written documents or statements which may be presented to them by or on behalf of the respective governments in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government, as counsel or agent for such government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined the official correspondence which has taken place between the two governments, and the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal.

Nevertheless, if the commissioners, or any two of them, shall think it desirable that a sovereign or head of a friendly state should be arbitrator or umpire in case of any claim, the commissioners shall report to that effect to their respective governments, who shall thereupon, within six months, agree upon some sovereign or head of a friendly state, who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two governments, and the other written documents or statements which may have been presented to the commissioners in respect of such claims.

The decision of the commissioners, and of the arbitrator or umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

In the event of a decision involving the question of compensation to be paid, being arrived at by a special arbitrator or umpire, the amount of such compensation shall be referred back to the commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator or umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The President of the United States of America, and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, hereby solemnly and sincerely engage to consider the decision of the commissioners, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision, without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the convention of the 8th of February, 1853, shall be admissible under this convention.

### Article III.

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire in the event of the commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the commissioners, or for the arbitrator or umpire, if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly or to any and what extent, according to the true intent and meaning of this convention.

### Article IV.

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin or its equivalent by the one government or the other, as the case may be, within eighteen months after the date of the decision, without interest.

### Article V.

The high contracting parties engage to consider the result of the proceedings of this commission as a full and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled and barred, and thenceforth inadmissible.

### Article VI.

The commissioners, and the arbitrator or umpire appointed by them, shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The secretary shall be appointed by the Secretary of State of the United States and by her Britannic Majesty's representative at Washington, jointly.

Each government shall pay the salaries of its own commissioners. All other expenses, and the contingent expenses of the commission, including the salary of the secretary, shall be defrayed in moieties by the two parties.

### Article VII.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by her Britannic Majesty; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

[SEAL.] REVERDY JOHNSON.
[SEAL.] CLARENDON.

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*Convention between the United States of America and her Majesty, for referring to arbitration the water boundary under article I of the treaty of June* 15, 1846.—*Signed at London, January* 14, 1869.

The United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being desirous to close all further discussion with regard to the true direction of the line of water boundary between their respective possessions, as laid down in article I of the treaty concluded between them on the 15th of June, 1846, have resolved to conclude a treaty for this purpose, and have named as their plenipotentiaries, that is to say: The President of the United States of America, Reverdy Johnson, esquire, envoy extraordinary and minister plenipotentiary from the United States to her Britannic Majesty; and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a peer of the United Kingdom, a member of her Britannic Majesty's most honorable privy council, knight of the most noble Order of the Garter, knight Grand Cross of the most honorable Order of the Bath, her Britannic Majesty's principal secretary of state for foreign affairs; who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

Whereas it was stipulated by article I of the treaty concluded at Washington, on the 15th of June, 1846, between the United States of America and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, that the line of boundary between the territories of the United States and those of her Britannic Majesty, from the point on the 49th parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the continent from Vancouver's island, and thence southerly through the middle of the said channel, and of Fuca's straits, to the Pacific ocean;" and whereas the commissioners appointed by the two high contracting parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid, have not been able to determine which is the true line contemplated by the treaty;

The two high contracting parties agree to refer to the President of the Swiss confederation to determine the line which, according to the terms of the aforesaid treaty, runs southerly through the middle of the channel which separates the continent from Vancouver's island, and of Fuca's straits, to the Pacific ocean.

ARTICLE II.

If the referee should be unable to ascertain and determine the precise line intended by the words of the treaty, it is agreed that it shall be left to him to determine upon some line which, in his opinion, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the treaty.

ARTICLE III.

It is agreed that the referee shall be at liberty to call for the production of, and to consult, all the correspondence which has taken place between the American and British governments on the matter at issue, and to weigh the testimony of the American and British negotiators of the treaty, as recorded in that correspondence, as to their intentions in framing the article in question; and the referee shall further be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from or were considered by the commissioners who have recently been employed by the two governments to endeavor to ascertain the line of boundary as contemplated by the treaty, and to consider all evidence that either of the high contracting parties may produce. But the referee shall not depart from the true meaning of the article as it stands, if he can deduce that meaning from the words of that article, those words having been agreed to by both parties, and having been inserted in a treaty ratified by both governments.

ARTICLE IV.

Should either government deliver to the referee a statement of its case, a copy thereof shall be at the same time communicated to the other party, through its representative in Switzerland, together with a copy of all papers or maps annexed to such statement. Each government shall moreover furnish to the other, on application, a copy of any individually specified documents or maps in its own exclusive possession relating to the matter at issue.

Each party shall be at liberty to draw up and lay before the referee a final statement, if it think fit to do so, in reply to the case of the other party, and a copy of such definitive statement shall be communicated by each party to the other, in the same manner as aforesaid.

The two high contracting parties engage to use their best exertions to place the whole of their respective case before the referee within twelve months after the exchange of the ratifications of the present treaty.

ARTICLE V.

The ministers and other public agents of the United States and of Great Britain, at Berne, shall be considered as the agents of their respective governments to conduct their case before the referee, who shall be requested to address all his communications and give all his notices to such ministers or other public agents, whose acts shall bind their governments to and before the referee on this matter.

ARTICLE VI.

It shall be competent to the referee to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person or by a person or persons named by him for that purpose; either with closed doors or in public sitting; in the presence or absence of both agents; and either *viva voce*, or by written discussion or otherwise.

ARTICLE VII.

The referee shall, if he thinks fit, appoint a secretary, registrar, or clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. He shall be requested to deliver, together with his award, a statement of all the costs and expenses which he may have been put to in relation to this matter; and the amount thereof shall forthwith be repaid in two equal portions, one by each of the two parties.

ARTICLE VIII.

The referee shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof, signed by him, to each of the said agents.

ARTICLE IX.

The respective parties formally engage to consider the decision of the referee, when given as final and conclusive, whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of article I of the treaty of 1846, or whether the said referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall, without reserve, be carried into immediate effect by commissioners to be appointed for the purpose of marking out the line of boundary in accordance with such decision of the referee.

ARTICLE X.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by her Britannic Majesty, and the ratifications shall be exchanged at London as soon as may be, within twelve months from the date hereof.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

[L. S.] REVERDY JOHNSON.
[L. S.] CLARENDON.

*Mr. Seward to Mr. Johnson.*

No. 64.] DEPARTMENT OF STATE,
*Washington, January* 20, 1869.

SIR: Your dispatch of the 9th of January, No. 96, was received. It relates to matters which, at the time of its date, were involved in the negotiations then pending for the settlement of the San Juan question and mutual claims. The necessity for a special reply has been superseded by subsequent events. On the 14th of January instant, a telegram was received from you which announced that the claims convention and the San Juan convention had been signed on that day at London. From materials which were remaining in our archives we were enabled to prepare a copy of each of those conventions. These copies, together with the naturalization protocol, were, on the 15th instant, submitted by the President to the Senate of the United States for their constitutional consideration.

It remains for me now only to convey to you the assurance of the President's high satisfaction with the manner in which you have conducted these important negotiations.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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*Mr. Johnson to Mr. Seward.*

No. 104.] LEGATION OF THE UNITED STATES,
*London, January* 22, 1869.

SIR: Referring to my dispatch No. 32, of October 14, I have now the honor to inclose a few more acknowledgments of the "Tributes of the Nations to Abraham Lincoln," received, since the date of that dispatch, from various parts of the British dominions. I inclose a list, and am, with high regard,

Your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*List of acknowledgments of the "Tributes of the Nations to Abraham Lincoln."*

Municipal council, Sanguhar.
Municipal council, Lancaster.
Municipal council, Glasgow.
Municipal council, Anstruther Easter.
Welch Baptist Association, Monmouthshire.
The Reformer, Dublin.
Georgetown, British Guiana.

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*Mr. Johnson to Mr. Seward.*

[Extract.]

No. 106.] LEGATION OF THE UNITED STATES,
*London, January* 30, 1869.

SIR: * * * Nothing has occurred since I last wrote to you of any public interest, except the decision of the Paris conference,

recently held in that city. The particulars of that decision have not as yet, I believe, been disclosed; but, from what I understand them to be, they seem to me to rest upon the same grounds upon which we have placed the Alabama claims. If I am not mistaken in this, (and I do not think I am,) neither of the governments represented at that conference, if selected as an arbitrator under our convention of the 14th instant, could fail to award in favor of the United States; and, indeed, as England was herself represented, and no doubt concurred with the conference, she may be considered as agreeing to the justice of our demand.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 110.] LEGATION OF THE UNITED STATES,
*London, February* 6, 1869.

SIR: The case of Augustine E. Costello came up on appeal before the Court of Queen's Bench in Dublin last week. The decision, which was against the prisoner, was delivered on Wednesday last, the 3d instant. Through the kindness of Mr. West I am enabled to forward herewith copies of the newspaper reports of these proceedings.

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington. D. C.*

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[From the Dublin Irish Times, January 30, 1869.]

COURT OF QUEEN'S BENCH—YESTERDAY.

(Before the Lord Chief Justice, Mr. Justice Fitzgerald, and Mr. Justice George.)

COSTELLO, PLAINTIFF IN ERROR, AGAINST THE QUEEN.

This case came before the court for argument upon the writ of error granted to the plaintiff, who was convicted recently of treason-felony at the commission court, Green street.

Mr. Heron, Queen's counsel, Mr. C. Molloy, and Mr. Crean, instructed by Mr. J. T. Scallan, appeared for the plaintiff in error. The attorney general, Mr. Murphy, Queen's counsel, and Mr. E. Barry, instructed by Mr. Anderson, for the Crown.

The prisoner, who was dressed in his prison costume, occupied the seat between two warders at one side of the court. He appeared to be in good health.

Mr. Heron said: I appear for the plaintiff in error, and before Mr. Molloy goes on with his argument I have an application to make about the course of procedure; that is, that the plaintiff insists on the right to reply.

The CHIEF JUSTICE. Very well; but let Mr. Molloy go on now.

Mr. Molloy then proceeded with his argument on the writ of error. He said that the prisoner had been tried at the commission for the county of Dublin, which had commenced its sittings in October, 1867; that he had put in a plea of abatement, to which the Crown demurred, and on the argument on the demurrer the Crown obtained judgment. The learned counsel then read over the record, which set forth the indictment, and the different points to be contended on behalf of the plaintiff that the judgment should be reversed. It also stated that the jury on the first trial had disagreed and had been discharged, and that on the 13th November, 1867, the prisoner had been again brought before the court, and that on that day he put in a plea to further prosecution on the indictment. The Crown demurred to that; the demurrer was allowed, and the trial of Costello was proceeded with. Several jurors had been challenged, and the

plaintiff in error now submitted that all these challenges were good challenges, and ought to have been allowed. Mr. Molloy then proceeded to quote from Chief Justice Tindall and other eminent legal authorities on cases in error. He submitted that judgment ought to have been given upon the plea of abatement for the prisoner and against the Crown. That plea contained three statements, the first of which was that the foreman of the grand jury had not complied with the provisions of the 1st and 2d Victoria; the second, the averment that the witnesses had not been sworn in open court; and the third statement, which was most important, was, that it did not appear on the record or otherwise that the bill of indictment had been legally found. Mr. Molloy also advanced the following points on which he relied on behalf of his client: That judgment ought to have been given upon the plea in abatement for the prisoner and against the Crown. That inasmuch as it does not appear by the record of the said indictment or otherwise, that the bill of indictment was found or returned a true bill by the grand jury, upon the evidence of any witness or witnesses who were sworn or affirmed, the prisoner should not have been put to answer said indictment, and that the same ought to have been quashed. That there is error in the mode in which the return and appearance of the jurors on the 5th of November, 1867, is stated and entered on the record. That judgment ought to have been given upon the plea pleaded by the prisoner on the 13th November, 1867, for the prisoner and against the Crown. That the plea pleaded on the 13th November, 1867, and the matters therein contained, were sufficient in law to bar and preclude the Crown from further prosecuting the indictment against the prisoner. That the award or precept given to the sheriff on the 13th November, 1867, to return another panel of jurors to try the issue before there was any defect or want of jurors of the panel returned on the 5th of November, pursuant to the award or order of the justices on said 5th November, and before said first panel had been exhausted, quashed, or disposed of, was not warranted by law. That the prisoner could not be legally tried by a jury selected from the second panel, returned on the 13th November, 1867, until the previous panel had been quashed, exhausted, or otherwise legally disposed of. Assuming the court to be of opinion that the award of the justices to the sheriff on the 15th of November was legal, and that the prisoner could be legally tried by a jury chosen from said second panel, that there is error in the mode in which the return and appearance of the jurors of the second panel is stated and entered on the record. That the challenge to William J. Nagle was a good challenge and ought to have been allowed. That the challenge to Archibald McComas was a good challenge, and ought to have been allowed. That the challenges respectively taken to Frederick Lewis, William Thomas McConkey, Francis Tellwright, and Samuel McComas, were each of them good challenges, and ought each to have been allowed. Mr. Molloy then commented generally upon the course which had been adopted towards Costello, and submitted that the second trial ought not to have been had against him.

The attorney general then addressed the court in support of the second trial, and against the application of the plaintiff in error.

Mr. Heron, Queen's counsel, replied on behalf of the plaintiff in error.

The case was ordered to stand over until Wednesday, for judgment.

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[From the Dublin Evening Post, February 3, 1869.]

COURT OF QUEEN'S BENCH—THIS DAY.

(Before the Lord Chief Justice, Mr. Justice Fitzgerald, and Mr. Justice George.)

THE CASE OF AUGUSTINE E. COSTELLO—JUDGMENT.

At the sitting of the court this morning, their lordships proceeded to deliver judgment on the writ of error obtained on the conviction of the Fenian prisoner, Augustine E. Costello, at a late special commission in Green street. The arguments on the writ of error, which took place on Friday last, were fully reported in this journal, and judgment was postponed until this morning. The prisoner was present in custody of the governor and one of the warders of the Mountjoy convict prison, and occupied a seat at the side bar.

The Crown was represented by Mr. Murphy, Queen's counsel, Mr. Heron, Queen's counsel, and Mr. Constantine Molloy, instructed by Mr. J. L. Scallan, appeared on behalf of the prisoner.

The lord chief justice delivered the unanimous judgment of the court. His lordship said the case came before them on a writ of error on the conviction of the prisoner at a special commission of the county of Dublin, in October, 1867. The first question raised for the prisoner was that he should not be called on to answer the indictment, because the witnesses were not sworn and returned to the grand jury by Mr. Alexander Ferrier, foreman, he not having affixed his signature to the back of the indictment.

Having alluded to the case cited by the counsel for the Crown—that of Mr. Steele in the memorable State trials—in which a similar circumstance occurred, his lordship said the essential thing to be done under the statute was to swear each witness whose name was on the back of the indictment, it being within the power of the foreman or any of the grand jury to administer the oath. It was not the indorsement that gave the authority to administer the oath; it was the act of Parliament. His lordship having quoted different authorities, said in the case before them it was nowhere alleged that the witnesses whose names were on the back of the indictment were not, as a matter of fact, sworn; the only allegation was, that the entry on the bill of the administration of the oath was omitted by the foreman of the grand jury. However, the essential thing was done—namely, the swearing of the witnesses—although the foreman of the grand jury had forgotten to initial the bill of indictment. Therefore, after a full and careful investigation, all the members of the court were of opinion that the arguments on the part of the prisoner had failed, and that there was nothing to support the ground of error on this point. The question mainly relied on for the prisoner was with reference to the affirmation of a juryman named James Kennan, who, though not belonging to any of the religious sects entitled to affirm, refused to take the usual oath, and served on the jury as if he had been duly sworn. His lordship read the circumstances attending the swearing of the jury on the first trial of the prisoner, as set forth in the writ of error, which have been already published, and also the affidavit of Mr. Scallan, the solicitor for the prisoner. The affidavit, he thought, disclosed that irregularity in swearing the jury was observed by the prisoner's counsel, but that they did not correct the error until it became embarrassing to the counsel for the Crown. The point raised in this part of the case was that the judges had no power to discharge the jury. The question raised in the prisoner's behalf was important, and worthy of consideration—namely, what is the extent of the judicial discretion of judges; but the practical question was, what, in such a case as appeared on the record, was to be done? Was the discharge of a jury, under the circumstances here stated, equivalent to a verdict of "not guilty?" Did it prevent the issuing of a fresh jury, even assuming the judges to have erred when the question of Mr. Kennan's affirmation was brought before them? It was necessary, in such cases as the present, to look with the utmost care and anxiety to questions touching the administration of the law, because he agreed with the prisoner's counsel that every protection should not only be granted to the prisoner, but zealously preserved to him. His lordship then cited a variety of cases, dating as far back as the reign of Henry the Seventh, in which judges had discharged juries for different causes, and also quoted legal authorities to show that it lay within the discretion and power of a judge to discharge jurors for illness, intoxication, or other causes. In the present case the officer of the court was ignorant of the mode of administering the affirmation to the juror. Was that circumstance sufficient to defeat the ends of justice? He thought he was warranted in the opinion that it was within the power of the court so to discharge the jury on the first trial. After some further observations his lordship said that, touching the argument that a wrong juror had got on the jury, the court were of opinion on the authorities that no case had been made—a remark which applied generally to the point raised as to the power of a judge to discharge a juror. The latter was a question much discussed, but they took the case of the Queen against Monsell to rule the present case, and no member of the court would wish it to be understood that the judge had not power to exercise his fullest discretion in discharging any member or even members of a jury. On the whole they were of opinion that no case had been made, and if there was any hardship of which the prisoner had to complain it was the duty of his counsel to bring the matter under the notice of the government of the country, and they might act on such information or memorial according to their wisdom and discretion. Having given to the case the most attentive consideration, in accordance with the requirements of justice and the ability of the arguments of counsel, the court were of opinion that judgment must be given for the Crown.

Mr. Justice Fitzgerald and Mr. Justice George concurred in the judgment of the lord chief justice.

The prisoner was then removed in custody, and was loudly cheered by a large crowd of persons assembled outside the court.

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### *Mr. Johnson to Mr. Seward.*

No. 111.] LEGATION OF THE UNITED STATES,
*London, February* 15, 1869.

SIR: As soon as I was informed that her Majesty would pro[illegible]ly hold a court during the coming season, I addressed to Lord Cla[illegible]endon an

official note communicating to him the resolution of Congress of the 27th March, 1867, and inquiring whether the members of this legation would be authorized to appear in any other than a uniform and official costume. That if not so permitted it would not be in their power, because contrary to their duty, to be present and show their respect and that of our government for her Majesty.

On the 10th instant I received an answer from his lordship, a copy of which is enclosed.

As her Majesty has consented to my request, I have advised his lordship that the arrangement she has sanctioned is satisfactory. It will of course be observed by myself and the members of the legation.

I am gratified to be able to give you this information, as it shows her Majesty's desire to comply with the wishes of our government and indicates the friendly feeling which she entertains for it.

A copy of my letter to Lord Clarendon of the 27th of January and of the one of to-day are inclosed.

Hoping that what I have done in the matter will meet the approval of yourself and President,

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Lord Clarendon.*

LEGATION OF THE UNITED STATES,
*London, January 27*, 1867.

MY LORD: I beg leave to call your lordship's attention to a resolution of the Congress of the United States of the 27th March, 1867, prohibiting persons in the diplomatic service of my government "from wearing any uniform or official costume not previously authorized."

As no authority has been given to the members of this legation excepting them from this positive prohibition it is our duty to comply with it. Your lordship will oblige me, therefore, by letting me know if we can appear in plain citizens' dress at the court ceremonials which her Majesty may hereafter have?

I sincerely hope that this privilege may be allowed us, and am sure that it would be regarded by my government with gratification. As I see that her Majesty is to hold a court on the 2d of March your lordship will please favor me with as early an answer as you conveniently can.

Inclosed you have a copy of the resolution referred to.

I pray your lordship to accept the assurance of the highest consideration with which I have the honor to remain, my lord, your lordship's most obedient servant,

REVERDY JOHNSON.

The Right Honorable EARL OF CLARENDON, *&c., &c., &c.*

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*Lord Clarendon to Mr. Johnson.*

FOREIGN OFFICE,
*February* 10, 1869.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo inclosing copy of a resolution of the Congress of the United States o the 27th of March, 1867, prohibiting persons in the diplomatic service of the United States from wearing any uniform or official costume not previously authorized.

You add that no authority has been given to the members of your legation excepting them from that positive prohibition, and you therefore request to be informed whether you and the gentlemen of your legation can appear in plain citizens' dress at the court ceremonials which her Majesty may hold.

Having laid your note before the Queen, I have received her Majesty's commands to acquaint you that her Majesty will receive yourself and members of your legation in evening dress without cocked hats and swords—breeches being worn on full dress occasions.

With regard to all other American citizens, who are not affected by the resolution of Congress, they will of course conform to the custom of her Majesty's court, and they will appear in uniform, or court dress, or in the dress agreed to with Mr. Dallas in the year 1858, namely: At levees in a suit of black evening clothes, with white neckcloth, sword, and cocked hat, and at drawing rooms or other full-dress occasions with breeches and buckles.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CLARENDON.

REVERDY JOHNSON, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Johnson to Lord Clarendon.*

LEGATION OF THE UNITED STATES,
*London, February* 15, 1869.

MY LORD: I have the honor to acknowledge the receipt of your lordship's answer to my official note of the 27th of January. As the arrangement which her Majesty has sanctioned in relation to court costume in no way conflicts with the resolution of Congress of March, 1857, it is entirely satisfactory and will be complied with by myself and the other members of this legation.

I have the honor to remain, with high regard, your lordship's most obedient servant,

REVERDY JOHNSON.

The Right Honorable EARL OF CLARENDON, *&c.*, *&c.*, *&c.*

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*Mr. Johnson to Mr. Seward.*

No. 112.] LEGATION OF THE UNITED STATES,
*London, February* 17, 1869.

SIR: The negotiations which resulted in the protocol on the subject of naturalization of the 9th of October last, and in the convention of the 14th of January last, for the settlement of the water boundary between the possessions of the United States and those of her Majesty's government, provided for by the first article of the treaty between the two countries of the 15th of June, 1846; and in the convention in relation to the claims, including the class known as the Alabama claims, of the same 14th January, were conducted by Lords Stanley and Clarendon and myself in personal interviews. I deem it, therefore, proper to state the motives which have influenced me in relation to these several subjects, and the grounds upon which I am satisfied that the arrangements are perfectly satisfactory and embrace all that our government has heretofore desired or can obtain.

Two of the matters in controversy when I accepted this mission had been of long duration. The first of them, involving the English doctrine of a perpetual allegiance, which could not, under any circumstances, be renounced by any native subject of this government, was coeval with the beginning of our government; and from that period until the signature of the protocol referred to, was uniformly acted upon by the political and judicial departments of Great Britain.

The second—what is called the San Juan boundary—Great Britain has uniformly maintained gave to her that island and all lying west of it. Our construction of the treaty of 1846 gives the island of San Juan and all west, with the exception of Vancouver's island and a few diminutive islands in its immediate vicinity, to the United States.

This dispute more than once threatened to involve the two nations in war, a calamity which was only averted by an agreement made in March, 1860, to hold San Juan in joint occupancy.

The third involves still more serious difficulties. From the date of the ratification of the treaty of the 8th of February, 1853, up to the commencement of our late civil war, claims were made against either government by the subjects or citizens of the other for wrongs alleged to have been committed upon them respectively. During that war these claims greatly increased. This government insisted that the property of their subjects had been seized by the military and naval authorities of the United States, in violation of the law of nations, for which the United States were bound to furnish indemnity. On the other hand, the United States complained that this government had caused the destruction of the property of their citizens upon the ocean by a premature and unauthorized recognition of belligerent rights to the insurgents, as also by not preventing, as they might have done by reasonable diligence, a violation of their neutral obligations by the subjects of her Majesty, in the fitting out of armed vessels to cruise, with known hostile intent, against the commercial marine of the United States; and by suffering such vessels afterwards, from time to time, to come into and obtain supplies in her colonial ports.

My special instructions were directed to these three controversies. When I arrived in this country her Majesty was on a visit to the continent, attended by her then secretary for foreign affairs, Lord Stanley. They did not return until September, and my first interview with Lord Stanley was on the 10th of that month, and I presented my letter of credence to her Majesty on the 14th of the same month. In the interval between my arrival in London, on the 17th of August, and the above dates I had no opportunity of ascertaining what the opinion of this government was upon either of these controversies. I only knew that the doctrine of native allegiance had always been asserted and acted upon by their courts in every case where the question was presented on the trial of cases growing out of the disturbances in Ireland. I also only knew that this government had uniformly denied its responsibility for the losses sustained by our citizens from the piratical acts of the cruisers referred to, and that this determination was so decided a one that Lord Russell, when at the head of the Foreign Office, had refused even to agree to submit the question to any arbitration whatever.

In a dispatch from his lordship to Mr. Adams, dated the 30th of August, 1865, he states that her Majesty's government "declines either to make reparation and compensation for the captures made by the Alabama, *or to refer the question to any foreign state.*"

I further knew that Lord Stanley, although willing to submit to arbitration the question of responsibility arising from the alleged absence of proper diligence in preventing the sailing of the Alabama and other vessels, positively refused to submit the question, which our government deemed important, whether this government had not prematurely and contrary to international law recognized the insurgents as belligerents.

In this state of things I deemed it important to ascertain what the public sentiment of this country was upon these several topics, and with a view to have that sentiment as favorable to their amicable adjustment as we could wish, to cultivate, one very proper occasion which offered itself, the friendly feelings of her Majesty's subjects.

From the nature of this government the opinion of the country on every important point of policy or duty is sure in the end to be not only persuasive but controlling; and although the opinions of her Majesty's government remained as they had been, I believed that, should they find the sentiment of the country to be decidedly in favor of such an amicable adjustment as our government desired, they would cheerfully agree to it.

In order to obtain a clear manifestation of the public opinion on the subject of the Alabama claims, in answering an address made to me by a large association of influential men at Sheffield on the 4th of September, I said:

If either wrongs the other, or suffers the other to be wronged, when it could have prevented it, it should not hesitate, when convinced of the error, to redress the consequences which may have resulted from it; and I have so much confidence in the enlightened judgment of your government and its love of justice, and I have like confidence in my own, that I feel convinced, if either commits such a wrong, it will, when satisfied of it, confess it and do whatever may be necessary to redress it.

That answer was not only received approvingly by the gentlemen to whom it was addressed, but was published with approbation by almost the entire press of the country. When, therefore, I commenced my negotiations with Lord Stanley I had the strongest hopes of being able to settle with him all the matters in controversy between the two countries. And this hope became an assurance at our first interview, as I found him as anxious for their settlement as I was.

As directed by your instructions, I addressed myself first to the question of naturalization. The English doctrine is so wholly unfounded in reason that his lordship did not hesitate to abandon it. Growing out of a feudal policy, it is unsuited to the rights of a free people. It assumes that allegiance is due to the soil upon which a man is born. It makes him, therefore, a political serf, and denies to him the power to change for the better his condition. No free people can consent to such a doctrine, and notwithstanding the uniform decisions of her Majesty's courts, hoary with age, and never for a moment questioned by any judicial decision, even up to the moment when our protocol was signed, it fell at once before the light of British and American freedom.

As will be seen, the protocol is more comprehensive than the treaties concluded on the same point with the North German confederation and other continental states. These latter are subject to restrictions and qualifications that are not to be found in the former. In that the American principle is recognized pure and simple. Whenever a subject of her Majesty becomes naturalized under any existing law of the United States, his rights are identical with those which belong to a native citizen. His renunciation of his allegiance consequent upon his birth is absolute, and cannot be again resumed or claimed of him without his own consent.

I next called his lordship's attention to the boundary question; and, in regard to this, we at once agreed to leave it to arbitration. The validity of our claim to the island of San Juan and its adjacencies depends upon the true construction of that part of the treaty of the 15th of June, 1846, which provides for the settlement of the boundaries between the territories of her Majesty and those of the United States. The only question in doubt as to the meaning of that treaty relates to the line described as beginning in the "middle of the channel which separates the continent from Vancouver's island, and thence southerly through the middle of the said channel and of Fuca's straits to the Pacific ocean."

What is the meaning of the word "channel" as here used? Does it mean any stream which may separate in fact "the continent from Vancouver's island;" or does it mean that which is the largest in width and the greatest in depth? If the words used had been the main channel, there could be no doubt that the latter was the one intended. Is it not obvious that the channel which was meant was that one? The widest and the deepest channel, and the one that runs direct into Fuca's strait, is designated on the maps of the country as the "Canal de Haro." With those

maps before them is it possible to suppose that either of the negotiators of the treaty could have designed the Rosario channel (the one contended for by this government) to be the channel? How could it be said, with any propriety of language, that that was the channel that separated "the continent from Vancouver's island?" And when, in addition to these considerations, it is known that Great Britain had only in view to secure a right to Vancouver's island, never pretending, as far as the history of the negotiation shows, a desire to acquire any territory east of that island, upon what possible pretense can it be held that the boundary was designed to be one which would not only give them that island, but large and valuable possessions to the east? And then, how can it be thought that the American negotiator, who was acquainted with the extent of the British demand, would have agreed to a boundary greatly enlarging its area, and abandon, for his own country, valuable territory to which the British government made no pretense of title?

For these reasons—and there are others which might be used to the same end—I believe it to be morally certain that the enlightened arbitrator to whom the adjustment of the dispute is left by the convention of the 14th of January, will render a judgment in favor of the United States.

In regard to the third—the claims convention—I shall be obliged to occupy more of your time. In the first place, the spirit of the age would condemn a resort to arms on the part of the United States upon the subject of these claims, if an arrangement could be made providing for a just and enlightened determination of the questions which they involve.

This is evident from a resolution unanimously adopted by the representatives of all the great powers, including, of course, Great Britain, who assembled at Paris in 1856. For that resolution declared "that it was the wish of all present that, whenever any serious difficulties should arise between two nations, there should not be recourse to arms until the mediation of some friendly power had been invoked to see whether these difficulties were not, by some means or other, capable of adjustment."

It is not, therefore, for a moment to be thought possible that the United States would desire to declare a war upon grounds which the judgment of the world would pronounce insufficient, and as contrary to the Christian civilization of the age. But if, contrary to this supposed impossibility, such a remedy should be resorted to for the redress of the wrongs in question, would it end in that redress? One of the certain results would be an indefinite increase of our public debt, and a great necessary increase of the taxes which would be required to meet it and maintain the faith of the government; and this at a moment when we are necessarily subjected to greater exactions for such purposes than our people have before known. And another equally certain result would be to injure our national reputation in the world's opinion. And then what should we gain to compensate in any manner for such injurious consequences? Would the losses sustained by our citizens by the acts of the Alabama and other insurgent cruisers be made good? Would the supposed injury to our national honor be wiped off? These would depend upon the termination of such a war, and who in advance can predict what that termination would be? The power of England upon both land and ocean was never greater than at present. Her steam navy has been brought to such a state of perfection that in speed and other efficiency it is believed to be unrivaled. The commercial marine, therefore, of the United States, at sea when the war is declared, would in all probability be certain victims, while that which was in port, if safe there against attacks of the enemy, would be useless to their owners. Can any one believe that this government, now willing to settle these

disputes upon just and honorable terms through the intervention of a commission for a friendly arbitration, could be made to agree, at the close of such a war, to any other mode of settlement? We might, and no doubt would, if that were possible, increase our military and naval fame; but the Alabama losses would be unliquidated, and we be found, at the termination of the war, as regards them, in the same condition as when the war commenced.

War, therefore, being out of the question, and this government refusing to pay the claims referred to until their liability was fixed by arbitration, they must remain unsatisfied until such an arbitration results in their favor. It is also to be borne in mind, in the consideration of the convention, that by entering into it, the two questions which the United States have from the first insisted should be submitted, this government have agreed to submit. As I have stated, Lord Russell refused to arbitrate at all; and afterwards, when Lord Stanley became the foreign secretary, he refused to submit to arbitration one of these questions—the alleged unauthorized recognition of belligerent rights. This question, however, as well as the question whether this government had observed their neutral obligations in suffering the Alabama and other vessels to be built and escape from their ports, will be both before the commission and the umpire. That their decision will be in favor of the United States I do not doubt. The reasons for this conviction I will briefly state:

First. The recognition of belligerent rights.

The history of the world furnishes no instance of so speedy a recognition in the case of revolutionary efforts to subvert an existing government. At the time it was made, the insurgents had no port within which to build a ship of war, large or small, or the power to get her out if she was built. Nor had they any port to which they could carry any ship that they might capture as prize of war for condemnation in a court of admiralty. As a war measure, resorted to simply for the purpose of suppressing the insurrection, and with no view to impart a national character to the insurgents, the President of the United States declared certain ports under the physical control of the insurgents to be in a state of blockade; and, to prevent the inhumanity of the slaughtering of prisoners, he agreed from time to time to exchanges. But in this again without the slightest view of admitting the insurgents as possessing any legal rights whatever.

The object of the blockade being the repression of the rebellion, and that being apparent from the history of the hour, this government must have known that we were far from according to them any national existence. Supposing, then, that the proclamation of the President was known to this government when they declared the insurgents to be belligerents, (a question of fact which I do not propose to examine,) it furnished no justification for the action of this government. And if it was not justified, as I confidently believe was the case, the act is one which bears materially upon the question whether the government is not bound to indemnify for the losses occasioned by the Alabama and the other vessels. For, then, that vessel and the others could not have been constructed or received in British ports, as they would have been, in the estimation of English law as well as the law of nations, piratical vessels. They never, therefore, would have been on the ocean, and the vessels and the cargoes belonging to American citizens destroyed by them would have been in safety.

Upon this ground, then, independent of the question of proper dili-

gence, the obligation of Great Britain to meet the losses seems to me to be most apparent.

But, secondly, what doubt can there be that she is under that obligation because of the absence of proper diligence in the fulfillment of her neutral duties?

What is proper diligence, is a mixed question of law and fact. That a neutral nation is bound to see that a belligerent with whom she is at peace suffers no injury, is a national axiom. That she is, therefore, bound to see that the other belligerent is not permitted to fit out in her ports vessels to cruise against it, is necessarily true. And what is diligence in such a case is equally well settled. It is that all the officers of the government—the government being responsible for the acts of all—shall use their powers to prevent a breach of neutral duties with reasonable skill, care, and promptitude. If they omit either, whether from negligence, ignorance, or corruption, the government is responsible for the consequences. Applying these principles to the present case, is it not manifest that there was a failure in the fulfillment of those duties for which this government is responsible?

1. It was notorious that the Alabama, originally known as No. 290, was being built under the direction of Captain Bullock, formerly an officer of the United States navy, but then in the service of the insurgents. There was not a man of any intelligence in Liverpool who was not aware of it, and the officers of the customs at that port must have known it. Possessing that knowledge notwithstanding, and seeing the vessel progressing to completion up to the moment when she left the port, they took no steps to arrest her. But even assuming that the government itself was not responsible for the misconduct of their subalterns, unless the facts were brought to their own knowledge, their responsibility is equally clear.

This is obvious from a few facts which cannot be controverted. Before the Alabama was constructed, another vessel, called the Oreto, intended to prey upon the commerce of the United States, was fitted out at the same port. As early as the 18th February, 1862, the fact was brought to the notice of Lord Russell, in a dispatch from Mr. Adams, and his lordship's attention was afterwards invited to it more than once up to the period of her sailing.

The fitting out of the Alabama and her piratical purpose were specially called to the attention of Lord Russell by a dispatch from Mr. Adams dated the 23d of June, 1862, and facts communicated to his lordship which rendered it certain that she was to cruise in hostility to the commerce of the United States. The vessel sailed on the 29th of July of the same year, and no attempt was made in the interval to arrest her. In the meantime, too, accumulated evidence was transmitted to his lordship establishing the fact, if possible, still more clearly that such was her destination; and yet nothing was done towards her seizure until an order for that purpose was issued by the government in London, but not received in Liverpool until she had gone. On the 22d of July, seven days before the vessel left Liverpool, the evidence was furnished his lordship upon which he issued the order of the 29th; and the only reason which has been assigned for the delay in the issuing of that order was the one given to Mr. Adams by his lordship, and which was communicated to your department in Mr. Adams's dispatch No. 201, of the 1st August, 1862. That reason was this. I quote from the dispatch:

"I read to his lordship the substances of your dispatches Nos. 281 and 299 respecting the use made of the island of Nassau by the rebels, and the fitting out of the gunboats Oreto and 290. His lordship first took

up the case of 290, and remarked that a delay in determining upon it had most unexpectedly been caused by the sudden development of a malady of the Queen's advocate, Sir John D. Harding, totally incapacitating him for the transaction of business."

That this reason is of any avail, upon the question of liability, who can believe? The obligation of the government was not contingent upon the sickness of her law or other officers, but absolute, and depended entirely upon the fact whether proper exertions were made to guard against the wrong. It is not my purpose in referring to Lord Russell's explanation to impute any intended wrong to his lordship. He acted, I have no doubt, in what he believed to be his official duty. But this is no answer to the wrong which resulted from it to the United States. The duty of Great Britain to observe a neutrality, as far as her responsibility to other nations is concerned, does not depend upon her municipal law or usage. These should be such as will insure the performance of that duty. The obligation is an international one, and is regulated by the law of nations alone. When that law enforces neutrality, each nation is bound to provide for its faithful observance. The malady, therefore, of the Queen's advocate constitutes no excuse whatever for the delay to act upon proofs conceded afterwards to be complete by the giving the order for the seizure of the Alabama.

But again, the giving of that order, and the issuing of two others to stop her at Holyhead, Queenstown, and Nassau, is conclusive to show that, in the judgment of his lordship, she had violated the municipal laws of the kingdom, and by so doing had put it out of the power of the government to fulfill their obligations of neutrality to the United States. And yet the vessel was afterwards permitted to enter other colonial ports and coal, and obtain provisions, and thus continue her piratical enterprise.

If the government was bound, as the orders just referred to concede, to seize the vessel if she entered either of the three ports named, why were they not bound to seize her when she entered any other of the ports of her Majesty? Could they be met by the objection that her commander then had a commission purporting to be from the insurgents? If such an objection as that would have been a protection, it would equally have been so at the designated ports, or in the port of Liverpool if she had returned there. An admitted violator of her Majesty's laws, and in a matter which involved the duty of her government, she could afterwards by force of such a commission ride in safety in any of the ports of her Majesty, even in the port of Liverpool, from which she had escaped by fraud and collusion. This is a proposition too absurd to be seriously reasoned about.

I have thus, at more length than you may deem necessary, considered the Alabama claims, the argument upon them having been exhausted in your dispatches to Mr. Adams, and his dispatches to her Majesty's government. But I have deemed it due to myself and to you that I should place upon record my own views relating to each of the subjects of the several treaties I have negotiated. I have done this with no view to my own justification, for this is to be found in your instructions, all of which I have followed, as I am glad to know, to the satisfaction of the President and yourself.

I hear that in some quarters objections are made to the claims convention, for which I was not prepared.

1. It is said, I am told, that the claims to be submitted should not be all that have arisen subsequent to July, 1853.

2. That no provision is made for the submission of any losses which our government, as such, may have sustained by the recognition of the insurgents as belligerents, and the depredations upon our commerce by the Alabama and other vessels.

In regard to the first, I do not see upon what ground of justice we should deny to our citizens the opportunity of having their claims upon this government adjusted by means of the commission, whatever may be the date of their origin, when they have not previously had that opportunity. I understand that there are many such claims, and some of them of great alleged hardship. And besides the justice due to this class of claimants, it is most desirable that all claims, without regard to their date, should be settled by means of the convention, as otherwise they may be the subject of controversy hereafter.

As regards the second objection, I am at a loss to imagine what would be the measure of the damage which it supposes our government should be indemnified for. How is it to be ascertained? By what rule is it to be measured? A nation's honor can have no compensation in money, and the depredations of the Alabama were of property in which our nation had no direct pecuniary interest. If it be said that those depredations prevented the sending forth of other commercial enterprises, the answer is twofold: first, that if they had been sent forth the nation would have had no direct interest in them; and second, that it could not be known that any such would have been undertaken. Upon what ground, therefore, could the nation demand compensation in money on either account? And if it was received, is it to go into the treasury for the use of the government, or to be distributed amongst those who may have engaged in such enterprises, and how many of them are there, and how are they to be ascertained? France recognized the insurgents as belligerents, and this may have tended to prolong the war. This, too, it may be said, was a violation of her duty, and affected our honor. If we can claim indemnity for our nation for such a recognition by England, we can equally claim it of France. And who has suggested such a claim as that?

But the final and conclusive answer to these objections is this:

1. That at no time during the war, whether whilst the Alabama and her sister ships were engaged in giving our marine to the flames, or since, no branch of the government proposed to hold her Majesty's government responsible, except to the value of the property destroyed, and that which would have resulted from the completion of the voyages in which they were engaged. The government never exacted anything on its own account. It acted only as the guardian and protector of its own citizens, and therefore only required that this government should pay their losses, or agree to submit the question of its liability to friendly arbitrament. To demand more now, and particularly to make a demand to which no limit can well be assigned, would be an entire departure from our previous course; and would, I am sure, not be listened to by this government or countenanced by other nations. We have obtained by the convention in question all that we have ever asked; and with perfect opportunity of knowing what the sentiment of this government and people is, I am satisfied that nothing more can be accomplished. And I am equally satisfied that if the convention goes into operation, every dollar due on what are known as the Alabama claims will be recovered.

I cannot conclude this communication without bearing testimony to the frank and friendly manner in which I have been met by Lords Stanley and Clarendon, and to the very sincere desire which they exhibited

throughout our negotiations to settle every dispute between the two nations upon terms just and honorable to each.

I have the honor to remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Johnson to Mr. Seward.*

No. 119.] LEGATION OF THE UNITED STATES,
*London, February* 20, 1869.

SIR: I find, by an editorial in the *Times* of yesterday, that there are objections to the claims convention, which are not noticed in my dispatch No. 112, of the 17th instant. To these I propose now briefly to address myself.

1. It is said that the time of the exchange of the ratifications allowed by the convention is too long. The purpose of that provision was not to delay such ratifications, but to insure their being made. Circumstances might possibly occur which would necessarily prevent such an exchange if a short period was only provided. And to guard against such a result, the period for the exchange is made longer than in fact would be found necessary. The time stipulated in the present convention, of twelve months for the purpose, is the same as that which was allowed in the claims convention between this country and our own of the 8th February, 1853.

2. The time allowed for rendering the awards and their payment. When it is remembered what the character of the most of these claims is, the novelty of the questions which for the most part they involve, and the probability that these will be submitted to the arbitration of "some sovereign or head of a friendly state," who will be at a great distance from Washington, the place of meeting of the commissioners, and that if he decides the question of liability the claims are to be returned to the commissioners to ascertain the amount due upon each, I do not see how it can be maintained that the two years is a longer time than is necessary and should be allowed for the completion of the whole work. This provision does not require the commissioners or the arbitrator to delay their or his decision for two years. They may, and no doubt will, discharge their duties within a much shorter period.

It is designed to guard against a failure of the adjustment consequent upon a shorter period, and to render unnecessary what has been found necessary in all previous cases, to prolong the time by an additional convention, which either government might refuse to enter into, and that would defeat the claims not acted upon.

3. The time allowed for the payment of the awards. This, it is objected, is too protracted. The time stipulated for this purpose in the convention of February, 1853, was twelve months from the date of each award. The time in the present convention is eighteen months from the date of each decision. This government would have been willing to fix the period at twelve months, but, looking to the condition of our treasury, and acting under instructions from the department, I thought it advisable to put it at eighteen months. But either government will have a right to pay at an earlier time if the claimants shall wish it.

4. That the claims of British subjects on the United States are submitted. This objection seems to me to be not only unreasonable, but

grossly unjust. It goes upon the ground, as I understand, that this government have been knowingly false to their duty, and have been governed by disreputable influence as concerns the causes which have given rise to the claims of our citizens. To suppose that a government alive to its own honor, as this government have ever been, would consent to negotiate upon the hypothesis that they had forfeited it, is as absurd as it would be insulting. How would our government answer the same objection if urged by Great Britain against our right to have submitted the claims of our citizens under such a convention? They would consider it a degrading imputation, to be met at all hazards with a stern rebuke.

But independent of these considerations, the object being to settle at the earliest period all the causes of difference between the two nations, (a settlement called for by the obvious interests of both,) it would seem to be manifest that they should all, as far as claims are concerned, be included within the convention. In no other way could the object be accomplished.

I remain, with high regard, your obedient servant,

REVERDY JOHNSON.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the London Times, February 19, 1869.—Editorial.]

The news we publish elsewhere this morning will show that the caution observed with reference to the Alabama claims in her Majesty's speech was not excessive. We were not led to expect an immediate settlement of the question, but only encouraged to hope that a durable friendship between Great Britain and America might be the result of the negotiations carried on by three successive governments. The cordial reception of this sentiment in both houses of Parliament fairly represents the feeling prevalent throughout this country, but we hear with less surprise than regret that the committee of foreign relations of the United States Senate yesterday rejected the convention almost unanimously. In spite of Mr. Reverdy Johnson's repeated assurances, we have never allowed ourselves to count too confidently on the assent of the Senate to any treaty signed by President Johnson on the eve of his retirement. That body is intrusted by the Constitution with no merely nominal responsibility in such cases. The President can only make treaties "by and with the advice of the Senate," and it is further required that at least two-thirds of the senators present should concur. After all that had passed, the republican majority might well grudge Mr. Johnson the honor of any diplomatic triumph which could be reserved for his successor. It appears, however, that a strong party in the United States opposed the ratification on independent grounds. While some writers and politicians exulted over the concessions extorted from Great Britain, others complain that Mr. Seward had sacrificed the interests of his own country. A petition embodying this view was presented by Mr. Sumner to the Senate in open session on January 30. It was signed by Mr. George B. Upton, a large ship-owner of Boston, and alleged two chief reasons why the convention should not be confirmed. The first of these objections is founded on the excessive time allowed for making the award and carrying it into effect. It was provided by the 7th article that ratifications should be exchanged within 12 months from the 14th of January, 1869, being the date of the convention. By the 3d article it was agreed that every claim should be presented within six months (or nine months at latest) of the first meeting of the commissioners, which was to be held "at the earliest possible period" after their appointment. A final decision was to be given on every claim within two years from the first meeting, but a further period of 18 months was fixed by the 4th article for the payment of any sums of money found to be due. We are disposed to agree with Mr. Upton that under these provisions redress would have been too long delayed. Two years may not be too much for the consideration of claims and counter-claims dating back to 1853, but if the convention were to be ratified at all, it ought surely to have been ratified within much less than a year, and if damages were to be paid, they might be paid within much less than a year and a half.

Mr. Upton's second objection, however, was of a very different nature, and one much more likely to have influenced the committee of the Senate. He protests against Brit-

ish claims upon the United States being placed on the same footing as American claims upon Great Britain. He assumes that whatever injury may have been inflicted on our ship-owners by the negligence of his own government, was inflicted without malice and in good faith. He not only assumes, but afterwards explicitly states, that whatever injury may have resulted to American commerce from the depredations of the Alabama and her consorts was inflicted by the British government willfully and in bad faith. These depredations he describes as "piracies committed by British-built, British-manned, and British-armed vessels, by vessels and armaments which left British ports under the protection of the British flag, and burnt American ships, and your memorialist's among the number, upon the high seas, without taking them into port for condemnation, and without any action being taken upon the part of the said British government, when these atrocities were laid before it, to prevent the same; but, on the contrary, these pirates were everywhere received with rejoicing when visiting British ports, and when the notorious builder of one of them boasted of the same in the British Parliament, of which he was a member, he was received with cheers and expressions of satisfaction." We have quoted this passage at length, both because we believe it to state the grounds upon which the committee of the Senate has acted in rejecting the convention, and because it well illustrates the confusion, as we regard it, which obscures the ultra-American view of this controversy. To assert that no action was taken by the British government to prevent the equipment of cruisers like the Alabama, in the face of such notorious facts as the seizure of the rams, is sufficiently audacious. But we do not speak of this; we speak of the misconception involved in connecting, for purposes of international arbitration, supposed breaches of neutrality by a government with the supposed manifestation of an unfriendly *animus* by its subjects. Far be it from us to excuse the unseemly applause which greeted Mr. Laird from the conservative benches on the occasion in question, or the sympathy with Captain Semmes's enterprise which may or may not have been shown at Nassau, or any other colonial port. It is natural that such ebullitions should at the time have aggravated the sense of injury received at the hands of our government in the American mind; but it is unreasonable to make them a part of the case against this country, or to insist on their being mixed up with pecuniary demands. Long before the civil war broke out, abuse of Great Britain was a favorite theme with the American press, and would generally bring down a storm of cheers at a popular meeting. Yet who ever thought of importing such an element as this into the negotiations about Oregon or the Maine boundary, and who would think of importing it into the settlement, contemplated by this very treaty, of British claims arising out of the Russian war? The more the subject is considered, the more absurd and impossible will it appear to found a substantive charge upon the confederate "proclivities" avowed by individual British subjects.

The real defect in the convention was one to which Mr. Upton does not seem to have called attention. It consisted, as we have before indicated, in the want of a definite basis for arbitration. There is no use in disguising this defect, since it would have become patent at the very first sitting of the commission. The liability of Great Britain must essentially have been made to depend upon the old question whether or not there was such a war in America as to justify us in recognizing the southern confederacy as a belligerent power. It is tolerably clear, indeed, that as no specific claim had ever been preferred, so none would have been preferred, against us on this score. But, on the other hand, the whole official correspondence between the two governments would have been made evidence in the suit, and this correspondence embodies many protests against "premature" recognition as a primary cause of the gigantic proportions assumed by the insurrection. Now, if this argument had been pushed to extremes, it would obviously have shaken the whole ground of arbitration. If no war existed when the Alabama escaped, or if it had been called into existence by our malfeasance, the particular wrong involved in the failure of our government to arrest the Alabama would be merged in a prior and still more flagrant breach of neutrality. If a war did exist, then, and then only, the commissioners could have proceeded to deal on intelligible principles with the special claims that might have been presented to them. This obvious defect goes far to reconcile us to the rejection of the convention, and, in the event of another being proposed, this point ought certainly to be cleared up. For the present, however, we have nothing to do but to await the proposals of the United States government. We have done our best; we have gone to the very verge—if we have not transgressed it—of national humiliation; the minister of the United States has wearied every audience by the emphatic testimony he has borne to our anxious desire to conciliate the country he represents; Mr. Seward has twice expressed his approval of the convention the Senate has rejected, and, in the consciousness of having made every reasonable concession, we must now wait to see what mode President Grant will propose for the settlement of claims which have been admitted to form a fair subject for friendly arbitration.

*Mr. Seward to Mr. Johnson.*

No. 81.] DEPARTMENT OF STATE,
*Washington, March* 3, 1869.

SIR: Your dispatch No. 112, of the 17th ultimo, relative to the protocol and convention recently signed by you on behalf of this government, has this day been received and submitted to the President. He directs me to say in reply that it is regarded as an able and elaborate paper, and would have been communicated to the Senate had it not reached here at the close of the present session, and that of his administration. It is presumed that the attention of that body will be called to it early in its next session.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

REVERDY JOHNSON, Esq., *&c., &c., &c.*

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## BRITISH LEGATION.

*Mr. Seward to Mr. Ford.*

DEPARTMENT OF STATE,
*Washington, December* 4, 1867.

SIR: Among the citizens of the United States who were tried and convicted in Canada in 1866 for participation in the forcible raid across the frontier, was Robert B. Lynch. The sentence of capital punishment in his, as in other cases, was commuted to penal imprisonment for a term of years. It was insisted, in the case of Mr. Lynch, that he was not one of the aggressive party, but was present merely in the character of a newspaper correspondent. Upon an examination of the case, I was fully satisfied that the conviction of Mr. Lynch was unjust, and I represented the subject in that manner to Sir Frederick Bruce. It is known to me that it was his attention to recommend a full pardon of the prisoner at some convenient time after the political excitement which attended the trials in Canada should have subsided, and in case the aggressive movements of the Fenians upon that frontier should not be renewed. I think that Sir Frederick Bruce made my opinions and views upon the subject known at the time to his excellency the governor general of Canada, and transmitted to him testimony furnished by this department to prove the innocence of Mr. Lynch. My attention has been recently recalled to the matter by a sister as well as many friends of the prisoner. I will esteem it a favor if you will recur to the correspondence of the legation, and communicate on the subject with the governor general of Canada, in such manner as shall seem to be convenient and proper. Perhaps you may think it not objectionable to transmit to his excellency the inclosed copy of a letter.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

FRANCIS CLARE FORD, Esq., *&c., &c., &c.*

*Mr. King to Mr. Seward.*

MILWAUKEE, *November* 30, 1867.

MY DEAR MR. SECRETARY: I inclose a letter, which, addressed to me at Albany, followed me thence to this city and reached me this morning. It tells its own story and needs no indorsement from me. It is the plea of a poor, sorrowing sister, for a brother unjustly condemned and imprisoned in Canada, for alleged complicity with the Fenian raid in the spring or summer of 1866. I do not know how far the Secretary may feel at liberty to interpose in such a case; but if he ever does, I should be very grateful if he would in this instance. I believe Miss Lynch tells the story truly, and suppose that an appeal from the State Department to the Canadian authorities would, without doubt, procure R. B. Lynch's release.

Always truly yours,

RUFUS KING.

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*Miss Lynch to Mr. King.*

CHICAGO, ILLINOIS, 72 WEST TWELFTH STREET,
*November* 24, 1867.

GENERAL: I should need an apology for the liberty I take in addressing you without having the honor of your acquaintance, and still more so for the obligation I wish to impose on you, if I did not consider your public and private character for benevolence, and the kindness and consideration which you have always shown the Irish adopted citizens of Milwaukee, and your generous and liberal treatment of them when editor and proprietor of the leading political paper of that city; this must needs be my apology.

My brother, R. B. Lynch, is now suffering a cruel imprisonment in the provincial penitentiary of Canada, for an alleged participation with a Fenian expedition in that province, in the summer of 1866; though he was only there in the capacity of a correspondent of a Louisville paper. My brother has had the honor and pleasure of your personal friendship and acquaintance for over 20 years; that he is a resident of Milwaukee; and he is quite sanguine that, from your great influence with the government at Washington, and particularly with the Secretary of State, you could obtain his freedom through this influence. His relatives and friends, and the Irish citizens of Milwaukee, would be under an everlasting obligation, if you would interfere in his behalf. He is now 18 months imprisoned, subject to all the indignities of a common felon. If he violated the laws of that province, those laws have been fully vindicated, and clemency might now be extended to the unfortunate prisoner. From the high position you hold in the government, and from the kind, friendly feeling you always had for my poor unfortunate brother, I beseech you to use your influence in obtaining his pardon. He was the principal support of my widowed sister, her children, and myself. His imprisonment is a sad affliction to us all. My sister and myself are now old, and have to work hard. My brother served in the Union army for three years, and for his kindness and attention to the sick and wounded Wisconsin soldiers at Louisville, where he was on detached duty, he was recommended to Governor Solomon, by the leading men in Milwaukee, for promotion, and his course favorably noticed by the press of that State. I would, therefore, earnestly beg of you, by the kind feelings you have shown our countrymen, which is most gratefully cherished by them to this day, and the high esteem in which you are held by them, to do something for my unfortunate, wretched brother, and restore him to his sorrowing family, who will be forever grateful to you, and offer up their fervent prayers for your long life and happiness and prosperity of yourself and family.

I have the honor to be your obedient servant,

MARIA ANNA LYNCH.

Hon. RUFUS KING.

P. S.—Affidavits are on file in the State Department proving my brother having no complicity with the Fenian expedition.

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*Mr. Ford to Mr. Seward.*

WASHINGTON, *January* 20, 1868.

SIR: Referring to the note that was addressed to you by the late Sir Frederick Bruce on the 22d of December, 1865, to your reply dated the

29th of that month, and to the late Sir Frederick Bruce's note of July 13, 1866, I have the honor to inform you that I have received the instructions of my government to endeavor to obtain an answer to the proposal made by the government of Great Britain to that of the United States with regard to a mutual arrangement to be entered into between the respective governments for providing for the relief of destitute seamen of the two nations.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

FRANCIS CLARE FORD.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Ford to Mr. Seward.*

WASHINGTON, *January* 20, 1868.

SIR: Her Majesty's consul at Canton, in bringing to the notice of her Majesty's government the barbarous treatment practiced on shipwrecked crews by the savage tribes inhabiting the southern end of the island of Formosa, has transmitted to England an extract from the Hong Kong newspaper, the "China Mail," of the 11th of November last.

A detailed account is therein given of the steps taken by General Le Gendre, the United States consul at Amoy, on learning the disastrous events that ensued in the landing of a party of men from the United States man-of-war Hartford, whilst seeking reparation for the massacre of the shipwrecked crew of the American vessel Rover.

The measures inaugurated by General Le Gendre would appear to have resulted in bringing the savage tribes to terms, and to a guarantee being given for the safety and protection of foreigners who may in future be shipwrecked on that coast.

In doing myself the honor of addressing to you the present note, I am authorized by my government to state that they have heard with pleasure of the benefit conferred on the maritime interests of all foreign nations by the energetic measures of the United States consul.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

FRANCIS CLARE FORD.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Seward to Mr. Ford.*

DEPARTMENT OF STATE,
*Washington, January* 23, 1868.

MY DEAR SIR: Your note of the 20th instant, containing some allusions to the proceedings which were adopted by General Le Gendre, United States consul at Amoy, for the protection of seamen against the violence of the savage tribes in Formosa, has given much pleasure to this department. First, because it gives what appears to be a probable account of the success of the consul's proceeding in that case; second, because it conveys an assurance of generous appreciation of the consul's proceeding on the part of her Majesty's government. Our latest offi-

cial information was of the 4th of September, 1867. We are indebted to the telegram and to your note for the full information we have of facts subsequent to that date. I shall have occasion to recur to the subject after obtaining more conclusive information.

I am, my dear sir, very faithfully yours,

WILLIAM H. SEWARD.

FRANCIS CLARE FORD, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Ford to Mr. Seward.*

WASHINGTON, *January* 31, 1868.

SIR: I have the honor to inform you that I duly communicated to my government copy of the note you did me the honor to address to me on the 4th ultimo, relative to the case of Robert B. Lynch, who was convicted for the Fenian raid into Canada in 1866. I now regret to inform you that I have been instructed by Lord Stanley, her Majesty's principal secretary of state for foreign affairs, to state that her Majesty's government can find no reason to justify a further mitigation of the sentence passed on him.

Robert B. Lynch, after a full and patient investigation, and on evidence which appeared fully to have justified his conviction, was sentenced to death, which sentence, however, was commuted to imprisonment for a term of 20 years.

Her Majesty's government have every disposition to take a merciful view of offenses which may have arisen in part from ignorance or perverted sentiment, but they also owe a duty to the peaceful inhabitants of Canada, whose country had been the object of a criminal attack, and would not be discharging that duty if they allowed it to be supposed that persons who, like Lynch, shared in the invasion of an unoffending country, could escape the punishment which their acts had invited on the ground of an allegation which, even if it were true, would amount to no more than this: that his object was not to engage personally in any act of violence, but only to give encouragement to those who did so.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

FRANCIS CLARE FORD.

Hon. WILLIAM H. SEWARD, *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Ford.*

DEPARTMENT OF STATE,
*Washington, February* 4, 1868.

SIR: I take occasion at the earliest convenient moment to acknowledge the receipt of your note of the 31st of January, which conveys to me the decision of her Majesty's government that it cannot find any reason for a mitigation of the sentence of Robert B. Lynch, who was convicted for the so-called Fenian raid in Canada in 1866.

I do not care to discuss that subject at large, but am under the necessity of seeking to rectify the understanding of her Majesty's government concerning the grounds upon which the President thought proper to

commend the case to renewed consideration. You inform me that her Majesty's government has every disposition to take a merciful view of events which may have arisen in part from ignorance or perverted sentiment; but it also owes a duty to the peaceful inhabitants of Canada, whose country had been made the object of a criminal attack, and would not be discharging that duty if it allowed it to be supposed that persons who, like Lynch, shared in the invasion of an unoffending country, should escape the punishment which their acts had invited on the ground of an allegation which, even if it were true, would amount to no more than this: that his object was not to engage personally in acts of violence, but only to give encouragement to those who did.

The views which I have had the honor to submit, with a recommendation of clemency in the case of Mr. Lynch, were that the evidence on the trial sufficiently established the fact that Lynch never united with any so-called Fenian organization, and that he constantly denounced their schemes as visionary and impracticable. Without denying that his conviction was lawful, it seemed to me that the British government nevertheless might find reasonable ground for believing that he did not intend to encourage those who engaged in acts of violence; and that the absence of this intention, qualifying the question of moral guilt, might well be taken into consideration upon an appeal or recommendation to the clemency of the British government. It was believed that the special clemency recommended would produce a favorable influence upon public opinion in the United States. I frankly confess to the opinion that although statutes, executive proclamations, and judicial decisions have all concurred in treating the aggression of the so-called Fenian raiders into Canada as merely a municipal crime, the transaction nevertheless partook of a political character, and had relations and connections with movements of that character that have widely manifested themselves, not only in Canada and in Great Britain, but in the United States also. In dealing with all such movements it is always a practical question how far magisterial benignity can be wisely mingled with judicial severity. All experience shows that clemency to political offenders may at times be legitimately exercised with advantage for preserving peace and public order. The recommendation in the case of Mr. Lynch proceeded upon the belief that his discharge from imprisonment would, under the circumstances, be very conducive to the preservation of peace and a good understanding between the United States and Great Britain. The disposition of the subject, however, properly belongs to her Majesty's government. Time must pronounce between this government and your own upon the wisdom of the decisions at which they have arrived.

I have the honor to be, sir, with the highest consideration, your obedient servant,

WILLIAM H. SEWARD.

FRANCIS CLARE FORD, Esq., *&c.*, *&c.*, *&c.*

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### *Lord Stanley to Mr. Thornton.*

[Communicated by the British legation.]

FOREIGN OFFICE, *March* 21, 1868.

SIR: I have already informed you that her Majesty's government would endeavor to frame a draft of treaty which might be acceptable both to England and to the United States, and that in the meanwhile

you should assure Mr. Seward that the matter was under the serious consideration of your government. I regret to say that the more the subject has been examined the greater has been found to be the legal difficulties with which the question is surrounded.

The matter might be disposed of with comparative ease if no other party but the one naturalized were to be affected by the renunciation or remission of natural allegiance, though, even in that case, it would be necessary to determine whether such renunciation or remission should be absolute, or whether readmission into the fold of original allegiance should be permitted, and if so on what terms and under what condition?

But other and more complicated matters arise when questions of descent, succession, title to property, and the general bearing of municipal laws adapted to the existing state of things have to be considered, and much difficulty might arise and much litigation occur in the courts, and many questions might come into discussion between governments, unless such matters were duly weighed and discussed, and definite principles by which all such difficulties should be obviated were adopted between the countries concerned, and were sanctioned by their respective legislatures.

As regards this country, if the principles of the Prussian treaty were to be adopted as the groundwork of a treaty between Great Britain and the United States, it would be necessary to consider the bearing which such a treaty would have not only on the common and statute law but also on the legislation of British colonies; and considering the close resemblance between the law and procedure of this country and those of the United States, the same process would doubtless have to be gone through there; and in both it would probably be found that a considerable revision of the law would be required to enable a naturalization treaty to work smoothly.

The only instruction, therefore, that her Majesty's government feel can now be safely given to you, is that you should assure Mr. Seward of their anxious desire to act in concert with the government of the United States in endeavoring to devise some effectual means for setting at rest this important and intricate question. The obstacles to immediate action which they see are of a legal, not of a political character. They disclaim the idea of desiring to maintain and enforce the doctrine of indefeasible allegiance, and are quite willing to adopt the principle of expatriation, which they think ought properly to be conceded by a government which for many years past has sanctioned, and even encouraged, an extensive emigration of British subjects to foreign states.

It is their intention at once to institute an inquiry into the legal bearings of the question, and they hope that the result of this inquiry may be the production, without unnecessary loss of time, of a well-considered and satisfactory measure.

You are at liberty to communicate this dispatch to Mr. Seward, and to give him a copy.

I am, &c.,

STANLEY.

EDWARD THORNTON, Esq., C. B., *&c., &c., &c.*

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*Mr. Thornton to Mr. Seward.*

WASHINGTON, *March* 23, 1868.

SIR: I have the honor to transmit to you copy of a dispatch addressed to Lord Stanley by Mr. Jorningham, her Majesty's chargé d'affaires

at Lima, inclosing copy of a letter addressed to him by the United States consul at Lambayeque, on the subject of the ill treament of two British subjects by the revolutionary forces in North Peru, and I have been instructed by his lordship to express to you the thanks of her Majesty's government for the friendly conduct of the United States consul in this matter.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Jorningham to Lord Stanley.*

BRITISH LEGATION, *Lima, January 27*, 1868.

MY LORD: I beg to forward to your lordship copy of a letter which I have received from the United States consul at Lambayeque, North Peru, who has kindly informed me, (we having no agent in that place,) at the wish of a British subject, that during the late depredations in that province, and others subsequent to the triumph of the revolutionary forces at Chiclayo, two commercial establishments of a British subject, named Mr. Feeley, had been sacked and destroyed, that he had been put in prison by sub-prefect Tello, for consulting with the United States consul how to make known his misfortunes, and that another Englishman had been ill treated and beaten.

Directly I am informed that an administration has been formed, I will go and see the minister for foreign affairs in this serious matter. In the mean time I have written to the United States consul, thanking kindly for the interest he has taken in behalf of British subjects; and I have also written privately to her Majesty's vice-consul at Payta, requesting precise information and an exact report on the subject of Mr. Feeley's losses.

I went also this morning to General Hovey to inform his excellency that I had received a letter from Mr. Consul Mountjoy, and expressed to his excellency my best thanks for what the United States consul at Lambayeque had done.

It appears the property in the same district, I believe, belonging to a North American, has also been damaged, they say to the amount of $60,000.

I have, &c.,

WM. S. JORNINGHAM.

Lord STANLEY, M. P., *&c., &c., &c.*

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*Mr. Mountjoy to Mr. Jorningham.*

CONSULATE OF THE UNITED STATES OF AMERICA,
*Lambayeque, January 22*, 1868.

YOUR EXCELLENCY: I have the honor to say that this moment Mr. James Feeley, a very respectable English merchant, has sent to request me to inform the representative of her Britannic Majesty that some days since, in the general work of destruction and devastation that has been committed in this province and others adjoining by the public authorities, his two commercial establishments have been completely sacked and destroyed to the amount, more or less, of $30,000; and having to-day visited me to consult as to the best means of bringing these circumstances to your knowledge, he has been arrested, placed in prison, and heavily ironed, by order of the sub-prefect of the province, Thomas Tello. Another unwarrantable outrage has been committed on the person of Mr. Thomas A. Batt, an English subject, who was so brutally beaten by armed emissaries of the authorities, a few steps from his own door, that his life has been in danger for a few days.

I can justly say, in favor of Messrs. Feeley and Batt, that they are and have been entirely neutral in the revolution that is distracting this part of Peru, and can imagine no cause whatever for these outrages.

Should your excellency desire to know the state of affairs in this part of Peru, his excellency General Hovey, minister of the United States, will give you the substance of my last dispatches to him, and I can only say, in addition, that some decided steps should be taken by foreign ministers to prevent and punish such outrages as are at present being committed upon foreigners of all nations.

I have, &c.,

S. C. MOUNTJOY,
*United States Consul.*

WM. S. JORNINGHAM, Esq.,
*Her Britannic Majesty's Consul, Lima.*

*Mr. Thornton to Mr. Seward.*

WASHINGTON, *March* 23, 1868.

SIR: I have been instructed by Lord Stanley to lay before you that information has been received by her Majesty's government of an intended Fenian raid on Canada, in the course of next spring, in which General O'Neil is represented as likely to play a prominent part.

The information that I have myself received of late, whether correct or not, is to the same effect, and that some action on the part of the Fenians in that sense may be expected at any moment.

If, however, there be any truth in such statements, of which you are doubtless better able to judge than myself, I am desired by Lord Stanley to invite the attention of the United States government to the subject, and to say that her Majesty's government will not allow themselves to doubt of their willingness to defeat by every legal means in their power any attempt to organize in the United States, and to carry into execution, any hostile enterprise against her Majesty's dominions in North America.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, April* 17, 1868.

SIR: Referring to your communication of the 23d ultimo, relative to the ill treatment of two British subjects by the public authorities in North Peru, and to the proceedings of the United States consul at Lambayeque in regard thereto, I have the honor to inclose for your information a translation of a note* of the 1st instant, upon the subject, which Mr. Garcia, the Peruvian minister, has addressed to this department.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, April* 17, 1868.

SIR: I have the honor to transmit for your information a copy of a dispatch† of the 28th ultimo, from the chargé d'affaires of the United States at Mexico, respecting the arrest of foreigners in various parts of that country.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

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* For this inclosure see correspondence with the Peruvian legation.
† For this inclosure see correspondence with the United States at Mexico.

*Mr. Thornton to Mr. Seward.*

WASHINGTON, *May* 9, 1868.

MY DEAR MR. SEWARD: I give you a copy of a telegram which I have just received from Lord Stanley:

"Nagle, Nugent, Leonard, Lee, and Fitzgibbon, having signed a document acknowledging that they came in the Jacmel, and expressing their regret for having done so, have been set free, and were to sail yesterday for America."

Sincerely yours,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, May* 28, 1868.

MY DEAR SIR: You have already called my attention to rumors of projected Fenian raids into Canada. The Canadian press is spreading excitement and alarm on the same subject. There are indications, if not of such movements, at least of a disposition on the part of some individuals to get up such movements presently. I need not repeat here that these incidents are engaging the attention of this government. I think it important, however, that her Majesty's government should now distinctly understand the President's opinion concerning the present situation of the Fenian question as a subject of international difficulty.

Whatever danger there may be of a disturbance of the peace of the frontier at the present time, that danger is altogether due to the omission by the British government to seasonably remove, either by legislation or by negotiation, the indefensible features of British policy on the subject of the rights of naturalized citizens of the United States. I yesterday instructed Mr. Moran to sound the British government on the subject of negotiating a treaty similar in effect to the provisions of the treaty between the United States and North Germany.

In asking your attention to the subject once more, I do so with a view of averting from this government undue responsibility in the event of new frontier collisions, especially liable to occur in a season of high political excitement in both countries.

I am, my dear sir, very faithfully, yours,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

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[Telegram, dated Ottawa, May 31, 1868.]

To his Excellency EDWARD THORNTON, *British Legation:*

I have this telegram from a trustworthy source: "Head Center at Ogdensburg presented draft at Jodson's bank for several thousand dollars. It was sent to New York for collection, and money returned yesterday and delivered to him. Eight wagon loads of arms and ammunition passed through Russell and Edwardsburgh into interior, from DeKalb Junction, Thursday night, from Ogdensburg. All strangers have gone to Potsdam Junction and Point, between there and Malone."

MONCK.

*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, July* 23, 1868.

SIR: I have the honor to transmit herewith, for your information and that of the government which you represent, a copy of an instruction* which, on the 14th instant, was addressed by this department to the United States minister at Yeddo.

I have the honor to be, sir, with the highest consideration, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

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*Lord Stanley to Mr. Thornton.*

[Communicated by the British legation.]

No. 157.] FOREIGN OFFICE, *July* 28, 1868.

SIR: The United States chargé d'affaires at this court has communicated to me a dispatch which he has received from Mr. Seward, bearing date June 22, 1868, in which Mr. Seward alludes to the frequent remonstrances and expostulations which have been addressed on the part of the United States government to her Majesty's government against the imprisonment of Messrs. Warren and Costello in this country, and complaining that the judicial severity maintained by her Majesty's government in these cases tends to embarrass the friendly relations between the two countries, and to protract the political excitement which has unhappily for some time disturbed the peace of the British realm and the British provinces adjacent to the United States.

Mr. Seward, in the same dispatch, alluded to his having on many occasions urged on the British government, though without success, the necessity of a modification of the laws of the British realm in the case of subjects of Great Britain who have become citizens of the United States under their naturalization laws. Mr. Moran also communicated to me, by Mr. Seward's desire, a copy of the resolution of the House of Representatives, dated June 15, requesting the President to take such measures as shall appear proper to secure the release of Messrs. Warren and Costello, convicted and sentenced for words and acts spoken and done in the United States, by ignoring the United States naturalization laws.

Of the two questions dealt with in this dispatch, that which relates to the naturalization laws has been already treated of by me in the confidential dispatch No. 135, which I addressed to you on the 16th ultimo, reporting the substance of a conversation which I had had with Mr. Moran. To the reasons there assigned as against the immediate conclusion of a treaty on that subject I have nothing to add, and I cannot doubt but that the explanations already entered into will satisfy the government and people of the United States of the sincere desire of her Majesty's government to dispose of this question in a manner which shall be satisfactory to both countries.

As regards the imprisonment of Messrs. Warren and Costello, I have to point out to you that the allegation on which Mr. Seward's request

*For this inclosure see correspondence with United States minister to Japan.

for their release is founded, viz, that they were convicted and sentenced for words spoken and acts committed in the United States, rests on a total misconception of the facts of the case.

These prisoners were convicted of treason-felony at the commission court for the county of Dublin, held in October last; the most prominent overt act insisted upon and proved against them being that they had come over to Ireland and cruised along the coast with intent to effect a landing of men and arms in Ireland, in order to raise insurrection against the Queen.

The evidence adduced against these prisoners in the course of the trial, of words spoken and acts committed by them in the United States, was given in strict accordance with the rules of law, as part of the testimony connecting them with a Fenian conspiracy which had existed in the county of Dublin, in which county the commission court sat; and which conspiracy had for its object the subversion of her Majesty's authority and the establishment of a republic in Ireland.

You will read this dispatch to Mr. Seward, and leave a copy of it with him.

I am, &c.,

STANLEY.

EDWARD THORNTON, Esq., *C. B., &c., &c., &c.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, August* 24, 1868.

SIR: I beg leave to hand you an original letter which was addressed to the President of the United States, by Maria Anna Lynch and Louisa Burke, sisters of Robert B. Lynch, who was convicted of complicity in the Fenian aggression of 1866, and sentenced to a long imprisonment, in Canada.

I have nothing to add on the present occasion to the opinion heretofore expressed by this government, that the conviction of Mr. Lynch was based on insufficient evidence, and that his pardon would have a beneficial influence.

Perhaps you will think it convenient and proper to transmit the letter of the unfortunate man's sisters to the governor general of Canada.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

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*Mr. Thornton to Mr. Seward.*

WASHINGTON, *September* 24, 1868.

SIR: Lord Stanley has instructed me to state to you, for the information of the government of the United States, that he has lately received reports and documents from Sir Harry Parkes, her Majesty's minister to Japan, relating to the persecution of native Christians in that country, and showing that the feeling against that religion is unfortunately increasing.

Amongst the documents is a decree ordering the distribution among 34 daimios of about 4,000 native Christians, who are to be kept at hard labor for a term of three years, during which time kind persuasion is to be used to induce them to turn to their old religion. At the expiration of that time they may be condemned to capital punishment if they still refuse to recant. In writing to Sir Harry Parkes upon this subject Lord Stanley has pointed out the necessity, in seeking to avert the threatened evil, of proceeding with caution. A rupture with Japan would paralyze a trade which promises to be of great value, while its immediate effect would scarcely be other than to increase, for a time at least, the pressure for persecution which the governing powers in Japan, however well disposed, might be unable to withstand.

The feelings of the United States, of France, and of England, upon this subject are well known, and the concurrence of other powers may be confidently assumed. If, then, the powers of Christendom should be compelled to adopt a common action to repress or revenge a policy of systematic religious persecution, the Japanese government would be exposed to serious danger.

But as her Majesty's government consider that the Japanese government have the power, if only they have the will, to restrain the fanaticism of their people, Lord Stanley has instructed Sir Harry Parkes, if occasion should unhappily arise for doing so, to act, as far as possible, in concert with his colleagues in behalf of native Christians; but he does not authorize him to take any more decided measures than those of friendly representation and remonstrance, unless, indeed, the persecution of native Christians should lead to a similar persecution of foreign Christians, and among them British subjects, in which case her Majesty's minister would be justified in applying to the commander of her Majesty's naval forces in the waters of Japan for his co-operation in protecting their persons and property, at the same time holding the Japanese government responsible for any wrongs done to them.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWD. THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, October* 12, 1868.

SIR: I have the honor to acknowledge the receipt of your note of the 24th ultimo, in which you inform the department that Lord Stanley has lately received reports and documents from Sir Harry Parkes, her Majesty's minister to Japan, upon the subject of the religious persecution threatened in the name of the Mikado, showing that the feeling against that religion is unhappily increasing. In reply, I have the honor to give you herewith, for the information of your government, a copy* of the latest correspondence which has taken place between this government and Mr. Van Valkenburg, on the painful subject referred to.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

* For inclosure see correspondence with the United States minister to Japan.

*Mr. Thornton to Mr. Seward.*

WASHINGTON, D. C., *October* 14, 1868.

MY DEAR MR. SEWARD: In compliance with the wish which you expressed to me in conversation on Monday last, I inclose copies of the reports sent me by Lord Monck relative to the health and treatment in prison of Mr. Lynch, who is now undergoing his sentence in Canada.

Believe me, very truly, yours,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Evans to Mr. McDonell.*

PROVINCIAL PENITENTIARY, *September* 9, 1868.

SIR: In reference to our conversation respecting the work convict Lynch does for me under my contract, I find it varies from 100 to 150 small parcels, of dozen locks in each, which he wraps up in one day in an outside wrapper *only*, in brown paper, and ties same with twine. The same work is done in the United States by women and girls in the lock shops there, and one girl there does more than four times as much as he is asked to do; in fact he is in no wise hurried, but can sit and rest whenever he is tired or feels so inclined.

Yours, truly,

W. C. EVANS.

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*Dr. Dickson to D. K. McDonell, Esq.*

SIR: I have the honor to report for the information of the honorable the minister of justice that the convict Robert B. Lynch is apparently in very good health. He has been a patient in hospital only once since he entered the prison; he was admitted on the 28th of December, 1867, complaining of a very slight attack of dysentery, which yielded speedily to treatment and only detained him in hospital two days. He has since the above date come to the surgery on two occasions, complaining of some slight indisposition which merely required a few doses of physic. He has not, however, made any complaint of being unwell for some months past.

I have, &c.,

JOHN R. DICKSON, M. D.,
*F. R. C. F. E., Surgeon Provincial Penitentiary.*

D. K. MCDONELL, Esq. *Warden P. P.*

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,
*Washington, December* 4, 1868.

SIR: I have received from Maria A. Lynch, the sister of Robert B. Lynch, who is now undergoing sentence of imprisonment in the penitentiary at Kingston, Canada, a letter of the 30th ultimo, a copy of which accompanies this note.

I have the honor to express the hope that you will commend the inclosed statement to the kind consideration of her Majesty's authorities, and to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., *&c., &c., &c.*

*Maria Lynch to Mr. Seward.*

72 WEST TWELFTH STREET, CHICAGO, ILLINOIS,
*November* 30, 1868.

SIR: I hope you will pardon the liberty I take in asking you to use your influence with the British government in behalf of my brother, Robert B. Lynch, confined in the provincial penitentiary, Kingston, Canada.

I am sorry to say he is this present moment in the hospital, sick. Believe me, sir, you will never do a more humane or a kinder act than to be the means of obtaining his release; he is suffering much from sickness and working at hard labor in the lock factory. I will say, if kept much longer there, he cannot survive very much longer.

I take the liberty of reminding you of your answer to General Rufus King's application in my brother's behalf, January last. You were then good enough to mention that Robert B. Lynch should be cared for—which I now hope and trust you will kindly renew—for which you will have the prayers and blessings of all his sorrowing sisters and family for your long life and many happy returns of the approaching season.

I have the honor to remain, sir, your very obedient servant,

MARIA A. LYNCH.

To Secretary SEWARD.

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*Mr. Thornton to Mr. Seward.*

WASHINGTON, *December* 5, 1868.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, inclosing copy of a letter from Maria A. Lynch. In compliance with your wish, I have forwarded copies of these documents to his excellency Sir John Young, governor general of Canada.

But at the same time I venture to refer you to the reports forwarded to me by Lord Monck and communicated to you on the 14th of October last, relative to Lynch's health and the amount of labor done by him. Since that time his health may have become worse, but the work which was then being done by him cannot be considered as anything but extremely moderate, and it is not likely that it has been since increased.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Lord Clarendon to Mr. Thornton.*

[Communicated by the British minister.]

No. 9.] FOREIGN OFFICE, *December* 24, 1868.

SIR: Her Majesty's government, since their accession to office, have had before them your telegrams of the 26th and 30th of November, your dispatch, No. 350 of the 30th of November, and your final telegram of the 21st of December, respecting the convention for the settlement of outstanding claims, signed by my predecessor and Mr. Johnson on the 10th of November. Mr. Johnson has also placed in my hands a telegram which he received on the same day, and which, with the exception of a passage in which it is said, "in the case of any and every claim the arbitrator or umpire may be the head of a friendly foreign state or nation," is identical with yours of the 21st instant.

It is therefore with this last telegram that her Majesty's government are especially called upon to deal; but before adverting to it I must

observe that her Majesty's government understand that Mr. Seward's objection to the convention signed by my predecessor and Mr. Johnson turns chiefly on the distinction made in that convention between general claims and the so-called "Alabama claims."

Mr. Seward desires to expunge from the convention the passages that relate to those claims, and to leave them to be dealt with on the same footing as other claims. The passages thus proposed to be expunged are the last paragraph of article II and articles IV, V, and VI of the convention.

Mr. Seward, anticipating a difficulty that might be raised by her Majesty's government to submitting to the arbitration of any private individual who might be selected as arbitrator or umpire by the commissioners questions of principle such as would arise in the consideration of the Alabama claims, now proposes to insert in article I of the convention passages which should admit generally of reference to a foreign sovereign or state of any such questions arising out of any claims whatever. By such a process provision would be made, though in a more comprehensive form, for the reference of the Alabama claims, in case of need, to the arbitration of a foreign sovereign or state, which was contemplated in articles IV and VI of the signed convention.

Mr. Seward further desires that the convention should be made to resemble as closely as possible the convention of 1853, as being more likely in that shape to be acceptable to the Senate of the United States.

Her Majesty's government, after full consideration of the matter, and being no less desirous than their predecessors and Mr. Seward himself to come to a settlement on the difficult and complicated question of mutual claims, are prepared to meet the wishes of the government of the United States in the manner which I will now explain to you.

They agree with Mr. Seward that it is desirable to adopt as closely as possible the terms of the convention of 1853.

They also agree to expunge the last paragraph of article II, and also articles IV and VI of the signed convention, which relate specifically to the "Alabama claims;" but they think that with a slight alteration, to be presently explained, it would be desirable to retain the terms of article V, though not embodied in a distinct article.

They further agree in the principle involved in Mr. Seward's proposed insertion in article I, under which reference to the decision of a friendly sovereign or state would be admissible in certain cases.

It appears, however, to her Majesty's government that, besides involving a very wide departure from the terms of the same article in the convention of 1853, the proposed insertion would render the article obscure and complicated, difficult of construction, and still more difficult in operation, and would tend to protract almost indefinitely the labors of the commission.

Her Majesty's government fully concur in the necessity of providing in the convention for a more solemn arbitration, where questions of principle in which the commissioners cannot agree are involved, than could be expected from any private individuals selected by the commissioners. Such questions may arise not only in regard to the "Alabama claims," but in regard to many other classes of claims which may be brought before the commissioners, and it seems to her Majesty's government highly important that such questions should be decided by the arbitration of a foreign sovereign or state, inasmuch as they will turn on points of international law, comity, or equity, in the consideration of which a foreign sovereign or head of a state may call to his assistance the learning and intelligence of any of their subjects who have made such matters their especial study.

But it seems to her Majesty's government that it would scarcely be courteous to any sovereign or head of a friendly foreign state, in default of the two governments agreeing within six months as to whom reference should be made, to leave to the commissioners to select him. Such selection could only rightly be made by the two governments themselves, as being co-ordinate in rank and dignity, and therefore fitting applicants for the good offices of one of their compeers; while, on the other hand, for the reasons that I have stated, the question on which the commissioners may be at issue can only be satisfactorily determined by a friendly foreign sovereign or state.

Her Majesty's government do not anticipate that any difficulty need arise between the two governments in selecting an arbiter of that class. No such difficulty was felt, in the corresponding case of the convention of 1827 respecting the northwest boundary, when the King of the Netherlands was agreed upon by the British secretary of state and the United States minister in London.

Her Majesty's government observe, moreover, that in Mr. Seward's proposed insertion no allusion is made to the production before the commissioners or arbitrator of the official correspondence which may have taken place between the two governments respecting any claims. This they conclude to be an oversight; but if not, her Majesty's government would not be disposed to insist upon it.

They observe, further, that no provision is made for accepting the decision of the arbitrator, whether chosen by the commissioners or chosen by the governments, as ruling not only the specific claim submitted to him, but all other claims of the same class. Her Majesty's government think it very essential that some such provision should be made, as otherwise the same principle may be submitted to arbitration over and over again, and so the sittings of the commissioners might be indefinitely prolonged.

Bearing all these considerations in mind, her Majesty's government have framed a fresh draft of convention, which I now inclose, and which I have to instruct you to submit to Mr. Seward, together with a copy of this dispatch.

This draught has been framed on the principle of adhering as closely as possible to the terms of the convention of 1853.

Thus the first article, with the exception of the introduction of the words "by and with the advice and consent of the Senate," and the substitution of "Washington" for "London," nearly textually reproduces the same article of the treaty of 1853.

The second article has necessarily been altered to meet the special requirements of the present case. The proposed alterations up to the end of the third paragraph are printed in italics, so that they may be more easily distinguished. The reasons for proposing them are already explained.

After the third paragraph a paragraph has been introduced varying but slightly from the fifth article of the signed convention. It seems necessary to adopt this provision to meet the case of the principle of a claim being decided by an arbitrator, leaving to the commissioners and the general arbiter named by them to determine, if the case arises, the amount of compensation payable to the claimant.

After the before mentioned paragraph is inserted the penultimate paragraph of the signed convention, as well as articles VII and VIII of the same.

Drawn in this shape article II will, except as regards the passages inserted in italics and the fourth paragraph, nearly textually reproduce the corresponding article of the convention of 1853.

The remaining slight alterations in articles IX and XI of the signed convention are adopted.

It remains for me to say that her Majesty's government prefer the form of convention to that of protocol, as calculated to lead to an earlier settlement of the preliminary discussion between the two governments. If a protocol were adopted in the first instance, its provisions would be operative until it were embodied in a convention; and the arrangement would require, as her Majesty's government understand the matter, to be twice submitted to the Senate for assent, whereby much time would be lost, with all the inconvenience of keeping open a question which necessarily attracts much attention, and of deferring the adjudication on claims, in the early settlement of which so many subjects and citizens of the two countries are deeply interested.

I have only to add that if the inclosed draft is accepted by Mr. Seward, Mr. Johnson might be authorized by telegraph to sign it, in which case it might be returned to Washington so as to admit of its being laid before the Senate by the middle of January, and pronounced upon by that body before the rising of the Congress on the 4th of March.

Her Majesty's government will greatly rejoice if their first interchange of communications with the government of the United States should be attended with a settlement of the complicated matters which form the subject of my present dispatch.

I am, &c.,

CLARENDON.

EDWARD THORNTON, Esq., C. B., *&c.*, *&c.*, *&c.*

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*Memorandum.*

The amendments made by the Secretary of State to this draft of convention are indicated as follows:

The parts expunged are placed between parentheses. The parts added are placed between brackets. Mr. Johnson was instructed accordingly by telegram January 11, and by dispatch No. 59 of the 12th of January, 1869.

*Draft of convention between Great Britain and the United States of America for the settlement of all outstanding claims.*

DECEMBER 22, 1868.

Whereas claims have, at various times since the exchange of the ratifications of the convention between Great Britain and the United States of America, signed at London on the 8th day of February, 1853, been made upon the government of her Britannic Majesty on the part of the citizens of the United States, and upon the government of the United States on the part of subjects of her Britannic Majesty; and whereas some of such claims are still pending and remain unsettled, her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable Edward Henry Stanley, commonly called Lord Stanley, a member of her Britannic Majesty's most honorable privy council, a member of Parliament, her principal secretary of state for foreign affairs; and the President of the United States of America, Reverdy Johnson, esquire, envoy extraordinary and minister plenipotentiary from the United States to her Britannic Majesty; who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I.

The high contracting parties agree that all claims on the part of subjects of her Britannic Majesty upon the government of the United States, and all claims on the part of citizens of the United States upon the government of her Britannic Majesty, [including the so-called Alabama claims,] which may have been presented to either government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the convention concluded between Great Britain and the United States of America, at London, on the 8th day of February, 1853, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in article III of this convention, whether or not arising out of the late civil war in the United States, shall be referred to four commissioners, to be appointed in the following manner, that is to say: Two commissioners shall be named by her Britannic Majesty, and two by the President of the United States, *by and with the advice and consent of the Senate.* In case of the death, absence, or incapacity of any commissioner, or in the event of any commissioner omitting or ceasing to act as such, her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commissioners so named shall meet at *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the governments of her Britannic Majesty and of the United States respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an arbitrator or umpire, the commissioners on either side shall name a person as arbitrator or umpire; and in each and every case in which the commissioners may not be able to come to a decision, the commissioners shall determine by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen as arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining or ceasing to act as such arbitrator or umpire, another person shall be named, in the same manner as the person originally named, to act as arbitrator or umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

ARTICLE II.

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. *The official correspondence which has taken place between the two governments respecting any claims shall be laid before the commissioners, and* they shall, *moreover,* be bound to receive and peruse all *other* written documents or statements which may be presented to them by or on behalf of the respective governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government, as counsel or agent for such government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the arbitrator or umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such arbitrator or umpire, after having examined *the official correspondence which has taken place between the two governments, and* the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal.

*(If, however, it shall appear to the commissioners, or any two of them, that, from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a special arbitrator or umpire shall be named, to whose decision such claim shall be referred,)* [Nevertheless, if the commissioners, or any two of them, shall think it desirable that a sovereign or head of a friendly state should be arbitrator or umpire in case of any claim,] *the commissioners shall report to that effect to their respective governments, who shall thereupon, within six months, agree upon some sovereign or head of a friendly*

*state, who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two governments, and the other written documents or statements which may have been presented to the commissioners in respect of such claims.*

The decision of the commissioners, and of the arbitrator or umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated. *(The decision of the arbitrator or umpire on any particular claim so referred to him shall rule any other claims of the same class.)*

In the event of a decision involving a question of compensation to be paid being arrived at by a special arbitrator or umpire, the amount of such compensation shall be referred back to the commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbiter or umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the United States of America hereby solemnly and sincerely engage to consider the decision of the commissioners, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the convention of the 8th of February, 1853, shall be admissible under this convention.

### ARTICLE III.

Every claim shall be presented to the commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire in the event of the commissioners differing in opinion thereupon; and then, and in any such case, the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the commissioners, or for the arbitrator or umpire, if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this convention.

### ARTICLE IV.

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin, or its equivalent, by the one government to the other, as the case may be, within *eighteen* months after the date of the decision, without interest.

### ARTICLE V.

The high contracting parties engage to consider the result of the proceedings of this commission as a full and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled and barred, *and henceforth inadmissible.*

### ARTICLE VI.

The commissioners *and the arbitrator or umpire appointed by them* shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof; and shall appoint and employ clerks, or other persons, to assist them in the transaction of the business which may come before them.

The secretary shall be appointed by her Britannic Majesty's representative at Washington, and by the Secretary of State of the United States, jointly.

Each government shall pay the salaries of its own commissioners. All other expenses, and the contingent expenses of the commission, including the salary of the secretary, shall be defrayed in moieties by the two parties.

ARTICLE VII.

The present convention shall be ratified by her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as may be, within twelve months from the date hereof.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London the —— day of ————, in the year of our Lord one thousand eight hundred and sixty ——.

# FRANCE.

*Mr. Dix to Mr. Seward.*

No. 157.] LEGATION OF THE UNITED STATES,
*Paris, November* 22, 1867.

SIR: The Paris journals are full of speculations in regard to the Roman question—indeed, they have been from the commencement of Garibaldi's movement. Some of these speculations, like the inclosed, translated from the "Liberté," are of the wildest character. I have not thought it advisable to take any other notice of it than to say to one or two persons who spoke to me on the subject, that, so far as the article referred to me, it was entirely destitute of truth. The policy of the United States in abstaining from all interference with the domestic concerns of other independent states is so well known abroad as to make it very unlikely that the statement in the "Epoque" will obtain any credence in intelligent quarters.

I have the honor to be, sir, very respectfully, your obedient servant,
JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[Translation from the "Liberté," November 22, 1867.]

The "Epoque" informs us that General Dix, minister of the United States at Paris, has received from his government an order to protest against the exclusion of the American Republic from the conference upon the Roman affairs.

In the opinion of the Washington cabinet the Roman question is not simply European, but universal.

Mr. de Moustier, the "Epoque" tells us, has received favorably this step of the American diplomat.

This is a piece of news which may well be true, provided that the first fact upon which our brother editor bases his statements is in any degree authentic.

*Mr. Dix to Mr. Seward.*

No. 158.] LEGATION OF THE UNITED STATES,
*Paris, November* 26, 1867.

SIR: I shall forward, by the dispatch bag of Friday next, the annual account of the condition of the empire, "exposé de la situation de l'empire," presented to the legislative chambers at the pending session. At page 245 you will find the following pleasant allusion to the United States, which I translate literally from the original:

"Our relations with the United States have resumed their habitual character of cordiality. Faithful to the recollections of our history, we follow with a sincere sympathy the efforts pursued by the great American federation to complete the work of its reconstruction and efface the

vestiges of its past discord. The prosperity of the United States is closely linked to that of the world, and in the desire we cherish for its development our interests are in accord with the traditions of our ancient friendship."

I need not add that the document containing the foregoing paragraph is the account rendered by the government of the transactions of the preceding year, and the condition of the country. It differs little, except in form, from the annual message of the President of the United States.

I have the honor to be, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to Mr. Seward.*

No. 160.] LEGATION OF THE UNITED STATES,
*Paris, November* 29, 1867.

SIR: I send by the dispatch bag to-day the document from which I made an extract in my dispatch No. 158, (26th instant,) and a document from the foreign office containing diplomatic papers.

In the former you will find, at page 256, a paragraph, of which the following is a translation:

"The time is not yet opportune to undertake a commercial negotiation with the cabinet of Washington; nevertheless, the progress which the doctrines of political economy now prevailing in Europe appear to have made within a few months in the federal administration gives ground for hope that our exchanges with the United States will not fail ere long to be placed on the footing of a conventional arrangement favorable to their development. In any event, we shall at a still earlier period obtain, without doubt, for the products of our vines, in regard to which the existing mode of assessing duties has of late been so prejudicial, the modification of the tariff, which we have claimed since last year."

I have the honor to be, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to Mr. Seward.*

No. 173.] LEGATION OF THE UNITED STATES,
*Paris, December* 31, 1867.

SIR: Noticing that the President in his annual message calls the attention of Congress to the claims of foreign states for military service from their subjects naturalized in the United States, I have thought it right to advise you of the present state of the question, which has for a great many years been a subject of discussion between the imperial government and our diplomatic representatives here: the liability of Frenchmen naturalized under the laws of the United States to be called to account for failing to appear and perform military service under the conscription laws of France.

I found that repeated and very elaborate arguments had been made by our ministers; and, as the subject appeared to me to have been exhausted, and as I am always unwilling to write dispatches except when absolutely necessary, I have forborne to enter into any correspondence with the imperial government on general grounds, but have confined my communications to an explanation of the circumstances under which two or three cases of arrest have occurred during the past year, pressing such explanation on the government with a view to the release of the persons detained. Through these communications, both written and verbal, I have obtained from the imperial government two admissions, viz:

1st. That no native of France, duly naturalized under the laws of the United States, will be held to perform military duty in the French army.

2d. That no such naturalized person, who has been conscripted under the laws of France and is in delinquency for failing to appear and perform military duty, will be held to any accountability for such delinquency after the lapse of three years from the time when he has lost "the quality of a Frenchman," as the laws of France express it; or, as I interpret it, after his naturalization in the United States.

No further concession appears likely at present to be made.

The imperial government has, no doubt, been a good deal annoyed by the disappearance of young men just before reaching the age at which they were liable to be conscripted, and sometimes immediately after being drawn for military service, and their reappearance after a few years, with naturalization papers and United States passports, for the purpose of resuming their residence in France. There have been several cases in which the persons arrested have been a number of years in the United States without becoming naturalized, and taking out their papers immediately before returning to France for purposes of business or pleasure. The annoyance created by cases like these, in the neighborhoods in which the parties have reappeared, has no doubt led the imperial government to require the lapse of three years after naturalization before returning to France, as evidence of the good faith of such persons in abjuring their native allegiance, and removing the presumption of having left their country for the sole purpose of evading the burden of military service, which they were bound by its laws to bear in common with all their fellow citizens of the same class.

The imperial government has, I believe, in every instance released from arrest, after judicial examination, Frenchmen naturalized in the United States, where there was not some ground for presuming bad faith in withdrawing themselves from the jurisdiction of France. I have had one case, in which a young man who left France in 1855 was conscripted in 1859, and remained in the United States till 1866 before he was naturalized. He came to France in the latter year, and soon after his naturalization. The court sentenced him to six months' imprisonment on the ground that he had been from 1859 to 1866, seven years, in a state of disobedience ("insoumission") to the laws of his country, to the government of which, during the whole period, he owed allegiance. I did all I could, by official correspondence and by personal interviews with the minister of foreign affairs and the minister of war, to obtain his release: but the government was inexorable, and he was only released on the full execution of his sentence.

It was regarded as a special case, in which a remission of the penalty would have encouraged an evasion of the laws exacting military service. I could, I have no doubt, have obtained his pardon from the Emperor, but I would not ask it, for I had claimed his release on the ground of

right, and I would not compromit my position by soliciting it as a favor.

It is proper to add that in all cases when a Frenchman has been conscripted and stands on record as having failed to comply with the requirement of military service, a judicial inquiry takes place. His passport does not exempt him from arrest and detention; but the government always allows him to go at large on engaging to appear at the time and place appointed for the examination. The first examination is by a civil tribunal. If he is found to be a citizen of the United States, he is exempted from military service. He is then brought before a council of war, which decides whether he has been delinquent; and if so, whether his delinquency is removed by prescription.

In my brief correspondence with the imperial government I claimed that the quality of a Frenchman was lost, under the Code Napoleon, at the moment of emigration, provided the emigration was without the intention of returning to France, or, in the language of the code, "*Sans esprit de retour.*" The course taken by the imperial tribunals and authorities practically refers the evidence of intention to the act of naturalization in a foreign country.

I have the honor to be, sir, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to Mr. Seward.*

No. 175.] LEGATION OF THE UNITED STATES,
*Paris, January* 1, 1868.

SIR: The Emperor received the diplomatic corps according to custom, to-day; after a very brief address by the Pope's nuncio in behalf of himself and his associates, and an equally brief reply by his Imperial Majesty, the latter passed down the line, saluting each member of the corps with some words appropriate to the day, and now and then making a special remark to some one of them. To me he said:

"The President of the United States in his late message to Congress made a very pleasant reference to France, and I am very sensible of his kindness."

I am, very respectfully, your most obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to Mr. Seward.*

No. 194.] LEGATION OF THE UNITED STATES,
*Paris, February* 8, 1868.

SIR: I have the honor to inclose a document which the chargé d'affaires from Japan left with me the day before yesterday, with a translation in French. His call, which was quite formal, was made in pursuance of a request that I would appoint a day to receive him. The conversation between us was carried on in Japanese on his part, and in French on mine; his interpreter, who does not speak English, explaining to each

what was said by the other. In the course of his remarks he expressed the wish that the government of the United States should be assured of the strong interest felt by that of Japan in all that concerns the prosperity of our country. He also desired that the inclosed document should be forwarded without delay, in order that the condition of things in Japan, which had not been correctly represented by the public press, should be rightly understood.

I have had an English translation made of the French translation, and inclose it with the original document.

I am, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

The undersigned, chargé d'affaires of Japan, has the honor to transmit, pursuant to the orders of his government, to General John A. Dix, envoy extraordinary and minister plenipotentiary of the United States of America, an original copy and a translation of the manifesto which the council of the Gorodjis addressed to the powers which have treaties with Japan, on the subject of the events which have recently taken place at Kioto.

The undersigned deems it, moreover, right to remark to the general, that although the Tycoon has thought it his duty to place his powers in the sacred hands of the Mikado, son of the gods, and provide for the convocation of a general assembly of the daimios of the empire, called by the sovereign himself to revise with him the constitution, nevertheless, by the express desire of the Mikado our Tycoon continues, until the decision of the national assembly, to preside over the administration of the country, and his orders will be, as heretofore, published and executed by the council of the Gorodjis.

The undersigned seizes this occasion to renew to General John A. Dix the assurance of his sentiments of high consideration.

KOURIMOTO AKI NOKAMI.

LEGATION OF JAPAN,
*Paris, January* 31, 1868.

Translated conformably to the Japanese text.

MENNET DE CACHOY.

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[Translation.]

Our Tycoon having voluntarily taken the resolution to place in the hands of the Mikado the reigns of the government which he and his ancestors have held for more than 250 years, we believe it to be our duty to explain to foreign powers the true meaning of the events which are about to be accomplished, and to warn them in advance against erroneous statements, which can serve only to create popular excitement.

For a perfect understanding of the facts we are about to expose, it is indispensable to go back to an early period of our history. In the beginning of the Japanese monarchy, that is to say over 2,000 years before the present reign, the sovereign descendants of the gods whom we call Mikados held absolute power. But their authority very soon became enfeebled, and ended in being transmitted to the Foogiwara, their chief ministers.

The departments of the civil government, "Konghué," which discharged at that time every duty, were unable to administer the government with authority, and above all to direct military operations against the rebels of that epoch. The sovereign was led to ask the military houses, "bonkhé," to lend him their aid, and thus the unity which gives strength to empires ceased to exist. Two great families, the Guendjis and the Fechis, shared at that period the military authority. The empire thus found itself divided: the military families of the east followed the banner of the Guendjis, and those of the west the flag of the Fechis. The disturbances which filled up those unfortunate periods sprang especially from the ambition of the prince of the family of the Mikados. Each pretender called in the assistance of one of the two military houses

referred to. The Fechis becoming for the time absolute masters, surpassed the Fondjiwaras in their tyranny, and the Mikado was forced to place himself under the protection of the Guendjis, who avenged upon the Fechis the death of their ancestors. The sovereign, delivered from his oppressors, invested the Guendjis with the entire military control. These events occurred in the 13th century of the Christian era. It was then that Shiogoon appeared, the true ancestors of the present dynasty of the Tokoogawa, who of right should have occupied the Tycoonate.

This state of things lasted nearly 400 years. In the wars continually waged, many Shiogoon, in protecting the Mikado against his enemies and maintaining peace in the empire, attained great reputation by their power and their devotedness. It is true that the empire did not yet enjoy entire peace, the division of power being one of the chief causes of the troubles which agitated it, each person acting according to his own caprice. The people, decimated by perpetual war, had forgotten even the existence of the Mikado. It was then that there appeared upon the political scene the ancestor of the Tycoons of the reigning dynasty, Gonguen Sama. Gifted with superior intelligence and wisdom, he never recoiled from any of the fatigues of war carried on to secure the final tranquillity of the country. People and sovereign began to breathe more freely. The Mikados saw their palaces rebuilt and their revenues increased, and all their dependents enjoyed the benefits of peace. Profoundly touched by so many noble qualities, the Mikados confided to Gonguen Sama all their power, and agreed to occupy themselves no more with the cares of government. The power of Gonguen Sama thus increased rapidly, and could be compared only to that of the ancient Shiogoon.

All the Daimios were convened at Yedo, and the bases of the new constitution were settled. All the Daimios without exception were obliged to have a palace at Yedo, in which they were compelled to live some every year, and others every two years, for a specified number of days. All consented without objection to this important stipulation of the constitution.

Thus Japan, after having been agitated by disturbances which had lasted for centuries, enjoyed a peace extending over a period of about 250 years. No Daimio during that time stirred up new troubles, and all esteemed themselves happy in living under the government of the Tycoon. Results so important had thus secured to his family and to his descendants the possession of an unquestioned power. But during this long period the rest of the world had made rapid progress.

An American fleet appeared before Yedo, and it became apparent that Japan could no longer isolate herself, and must finally renounce the old practice of excluding strangers. The government was convinced that, in view of the progress of military science and the perfection of arms in Europe, it would be absurd to risk without good reason the hazards of an uncertain war. Besides, distance being as it were annihilated and nations brought into contact with each other, it was resolved that Japan should make treaties with the west. Such a resolution necessarily produced changes which the country was far from expecting. It is to be regretted that the government did not consider this matter in every possible light, in order that no misapprehensions should exist in the mind of any one. But it believed that in limiting the provisions of the treaties, and in restricting our relations with the west, it would be able to dispel by degrees the prejudices of a people whose country had been closed until that time to all relations with foreigners. This half measure only encouraged its enemies, and created distrust between strangers and the Japanese.

Some great Daimios even conceived the project of taking advantage of these difficulties to seize upon the power of the Tycoon. The most absurd rumors were persistently spread. They deceived the Mikado. The government was calumniated and its acts misrepresented.

This is not the place to discuss the causes which weakened the government of the predecessors of the Tycoon. Such a discussion would be useless, and repugnant to the feelings of the devoted subjects of the Tycoon. Nevertheless, if the policy which has been pursued does not meet with one entire approval, we do simple justice in affirming that the government has never ceased to combat the party hostile to strangers, and loyally to seek the means necessary to insure the observance of its treaties. But the solution of so many difficulties was reserved for the reigning Tycoon, who by the superiority of his genius has alone been able to construct upon a firm foundation the political edifice of Gonguen Sama. A long experience had convinced him that unity of power was one of the first conditions of good government. The long sojourn he had made at Kioto had enabled him fully to appreciate all the difficulties against which the government contended. Thus at first he declined to take the direction of affairs, and if later he repressed his repugnance, it was because he comprehended the necessity of establishing abroad full confidence in the loyalty of the country in the execution of its treaties, however unpopular they might be, and however opposed by some of the Daimios.

The invitation which was addressed to the representatives of foreign powers to come to Osacca, the cordial reception which was given them, the unalterable resolution to execute treaties in all their details, are without doubt so many sacred duties imposed

upon the chief of the government. But it is impossible for us not to recall in this place the generous efforts of the Tycoon, his loyalty, his sincerity, and his forgetfulness of his own interests. Thus the execution of her treaties has been assured, and Japan need not blush before the world.

The external question having been settled, the Tycoon naturally turned his regards upon the internal condition of his country. He could not avoid recognizing that our institutions, formerly excellent, did not now, reopened to the necessities of our age, and that to remain indifferent to the progress of the rest of the world would be truly moral suicide. We have ourselves often reflected also upon this grave question. But to resolve so difficult a problem nothing less than the wisdom of the reigning Taikoon would have sufficed. He believes, with reason, that to give to government the required strength it is necessary, while respecting the aspirations and the prejudices of the country, to re-establish a unity of power. While among western nations this unity is practically adopted by all, with us it is a pure fiction.

May the people itself understand this necessity of the times, and lend its assistance to the generous initiative of the Chief of State. Thus the Chief of State, on taking the resolution to resign into the hands of the Mikado the power which he had derived from his ancestors, immediately begged the sovereign to convoke all the magnates of the country, that they might come to an understanding upon the present condition of affairs, fix the government upon a solid basis, revise the constitution, and thus open to the country a road of progress which must lead it to power and prosperity.

Such noble disinterestedness, without parallel in the history of our country, could have inspired the Tycoon only from his profound patriotism, which can never be indifferent to the sufferings of his country.

Such is the true meaning of the events which have just occurred. Our relations with foreign nations cannot be affected by them. These will be, as they have been, pacific and amicable, and should not be objects of suspicion to foreign powers. Our treaties will be executed in their integrity.'

The Tycoon, in strictly executing the treaties, has given striking proofs of his loyalty, and of his sincere desire to live in perfect harmony with foreign powers. As regards the Daimios, who in response to the call of the Tycoon may unite in council to discuss the question of external affairs, if there should be among them some difference of opinion, the Taikoon can count upon eight or nine-tenths of the Daimios and Minamotos.

We end this letter by an appeal to the friendship of foreign powers, and we beg them kindly to join us in our work. The motives which lead us to desire their moral aid are, above all, a love of country, and a desire to be able some day to thank them for the generous aid they may have given us. Our reconstruction will then be as closely allied to their glory as is the shadow to the substance and the echo to the sound which produces it. We have believed it to be our duty to enlighten foreign powers upon the events which have just taken place, and, as we have said in another dispatch, we shall take care to keep them informed of the news from Kioto.

Translation conformable to the Japanese text.

MENNET DE CACHOY.

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*Mr. Seward to Mr. Dix.*

No. 152.] DEPARTMENT OF STATE,
*Washington, February 27, 1868.*

SIR: Your two dispatches, the one of the 8th of February, the other of the 10th of the same month, with the papers mentioned therein as inclosures, have been received. Simultaneously we have received from Mr. Van Valkenburgh, United States minister resident at Yedo, explanations of the Japanese government, which are identical, except in the language of translation, with the documents which you have transmitted to this department.

With the limited information we possess, we see no reason to doubt the frankness, sincerity, and fidelity of the Tycoon and his government.

I give you a copy of the instruction * I have sent to Mr. Van Valkenburgh on the subject of the present state of the Japanese revolution.

* For this inclosure see correspondence with the United States minister to Japan.

You may with entire propriety give a copy of it, or communicate its effect, to the Japanese chargé d'affaires.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN A. DIX, Esq., *&c., &c., &c.*

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*Mr. Dix to Mr. Seward.*

No. 231.] LEGATION OF THE UNITED STATES,
*Paris, May* 26, 1868.

SIR: In my dispatch No. 173 I stated the condition of the question in regard to natives of France naturalized in the United States being held to account for their failure to comply with the laws of the former country exacting military service.

Since then a case has been disposed of in the most satisfactory manner.

Jules Pinon left France for the United States in 1851, at 16 years of age. In the same year he declared his intention to become a citizen of the latter country; but his papers did not show that he was naturalized until the 1st November, 1866.

In 1854 he was conscripted in France; 12 years before, as would seem by his papers, his naturalization as a citizen of the United States was consummated; the civil tribunal, before which he was summoned, declared that he had lost, as the Code Napoleon expresses it, "the quality of a Frenchman," a declaration which, under the rule referred to in my dispatch, exempted him from military service. He was then brought before a council of war to account for his default, and, although he had only been naturalized a little more than a year, he was unanimously acquitted of all liability for failing to comply with the conscription act, under which he had been enrolled, and was discharged.

This decision leaves nothing to be desired. The case is precisely like that of Hirsch, alluded to in my dispatch, except that Pinon had been a longer time in default; and I can only account for the difference in the result by the supposition that the latter satisfied the council of war that he went to the United States with the *bona fide* intention of becoming a citizen. These examinations always take place in the vicinity of the localities from which the parties emigrate, and it is probably not difficult in most instances to show circumstances attending their change of domicile which may go far to manifest the intention of the parties, and to prove good faith, or the want of it, in leaving their homes just as they are attaining the age at which they become liable to military service.

I am, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Dix.*

No. 188.] DEPARTMENT OF STATE,
*Washington, July* 3, 1868.

SIR: I have carefully read your dispatch of the 26th of May, No. 231, which relates to the case of Jules Pinon under the French conscription law.

Nothing could be more gratifying than the liberality with which this case and other similar cases have been disposed of by the French courts, and under the authority of the imperial government.

The policies of the two governments practically coincide in regard to the effects of naturalization, and its bearing upon the military service, and we have only occasional cases for easy explanation and adjustment. Why, then, is it not expedient to make our agreement complete, by the adoption of a treaty substantially like those which have been made between the United States and North Germany and between the United States and Bavaria?

I send you a copy of the latter treaty. Will you please confer with Mr. Moustier upon the subject? It seems to me that all the advantages which France holds under the present system are unimportant to her, while a removal of all grounds of difference by treaty would tend immensely to cement good relations between France and the United States.

Should Mr. Moustier agree to negotiate, you may advise me by telegraph, and I will send you the necessary power.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN A. DIX, Esq., *&c., &c., &c.*

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*Mr. Dix to Mr. Seward.*

No. 249.] LEGATION OF THE UNITED STATES,
*Paris, July* 30, 1868.

SIR: In pursuance of the instructions contained in your dispatch of the 3d instant, No. 188, which I received three days ago, I called on the Marquis de Moustier to-day, and submitted to him your proposition to enter into an agreement by treaty in regard to the naturalization of citizens of the United States and France reciprocally under their respective laws.

After stating to him substantially in your own terms the considerations in favor of such an arrangement, he said the subject was one which he had not considered, and which would need examination in his own department, and consultation with other officers of the government, and particularly with the minister of war. All this he said should be done as soon as practicable. In the course of our conversation he observed that he had not seen our treaty with North Germany, and was not aware that we had been in negotiation with Bavaria on the same subject. I am to send him to-morrow a copy of the treaty with the latter, inclosed to me in your dispatch.

The corps legislatif, as you will probably have seen ere this dispatch reaches you, has just adjourned, after a session of 254 days. The senate will also close its session shortly. The ministers have had very hard work, and will, no doubt, take very liberal vacations. The Emperor is to be at Plombières a fortnight more, and is not expected to be in Paris, except for a day or two, until October.

I fear all the circumstances will delay negotiation, should it be favorably considered. But I shall not fail to press the matter upon the attention of the imperial government.

I am, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Dix to Mr. Seward.*

No. 254.] LEGATION OF THE UNITED STATES,
*Paris, August 7*, 1868.

SIR: I was at the foreign office again yesterday, and renewed my conversation with the Marquis de Moustier in regard to a treaty on the naturalization question. He said it should not be neglected, but that he did not think it would be possible to consider it till October, as the Emperor was to be absent, and his ministers, who had been very much confined to the city for two years, were to have long vacations. It would also be necessary, before entering into a negotiation, to examine the whole subject with great care in connection with domestic interests, as well as with the relations of France to other European states.

In my dispatch No. 249, I anticipated and stated the same causes of delay; and I was well aware that nothing could be done during the absence of the Emperor.

I am, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Dix.*

No. 195.] DEPARTMENT OF STATE,
*Washington, August 20*, 1868.

SIR: I have your dispatch of the 7th of August, No. 254. Certainly no one could object to the delay which Mr. Moustier finds it necessary to make in regard to entering into negotiations upon the naturalization question.

I hope, however, that you will improve the earliest moment of convenience on the part of the French government for bringing the subject to a conclusion, so that the treaty, if one shall be made, can be submitted to the United States Senate as soon as it shall have reassembled.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN A. DIX, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Dix.*

No. 205.] DEPARTMENT OF STATE,
*Washington, October 5*, 1868.

SIR: I enclose a transcript of a letter from the Honorable John A. Bingham, a member of the House of Representatives, together with a copy of its accompaniment, from E. G. Morgan, esq., of Ohio, requesting the intervention of this department in behalf of Philip Brailly, a naturalized citizen of the United States, now imprisoned in Paris for failure to perform military duty in 1848.

You are instructed to use your good offices, unofficially, with a view to secure the liberation of Mr. Brailly.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN A. DIX, Esq., *&c., &c., &c.*

*Mr. Bingham to Mr. Seward.*

CADIZ, OHIO, *September* 29, 1868.

SIR: I have the honor to inclose herewith the letter of E. G. Morgan, requesting the intervention of the United States for the release of Philip Brailly, a citizen of the United States, wrongfully imprisoned in France.

I have no doubt the statement of Mr. Morgan is correct, and therefore respectfully ask your attention to his suggestions and request.

Very truly yours,

JOHN A. BINGHAM.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Morgan to Mr. Bingham.*

BELL AIR, OHIO, *September* 18, 1868.

SIR: I write you in behalf of Philip Brailly, now in prison in Paris, France, a resident of our village, and a citizen of the United States; a man of property, of integrity, and highly respected by our community, who deeply sympathize with his family. The history of his case is this: In 1848, during the time of the republic of France, he left under a passport for the United States, to seek a home for himself and parents, being at that time about 18 years of age, as we learn from his passport in possession of his wife. Before he had secured a suitable location his father died. His mother, declining to leave the land of her birth and the grave of her husband, has manifested a parental desire to have her only child return to France and reside with her, near Paris. She is now growing old, and he, feeling anxious to see his mother once more, was induced by her pursuasions to visit France this summer, but with no intention of removing there; his mother having stated to him that she had consulted the authorities at Paris, and that the only penalty he would have to undergo would be a fine of $300, which she would willingly pay.

On his arrival in Paris, he wrote his wife that on the following day he would report himself to the proper officer, since which time he has notwritten her; but she received a letter from a relative of his in Paris, inclosing a draft for a considerable sum of money from his mother, stating that he has been imprisoned for six months as a deserter from military duty.

On receipt of this, please write me if anything can be done towards having him released.

Hoping to enlist your active sympathy in his behalf, I am, respectfully, yours, &c.,

E. G. MORGAN.

Hon. JOHN A. BINGHAM.

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*Mr. Dix to Mr. Seward.*

No. 274.] LEGATION OF THE UNITED STATES,
*Paris, October* 9, 1868.

SIR: You are, no doubt, kept fully advised by Mr. Hale of the state of things at Madrid. Much anxiety is felt here in regard to the reorganization of the new government, in consequence of the known differences of opinion among the leading men, chiefly military commanders, who have things in their hands. Still the almost bloodless character of the revolution, the unanimity of feeling on the part of the army and the people with which the Queen has been disowned, and the great moderation with which affairs have been conducted thus far, inspire strong hopes of a satisfactory result.

I write for the purpose of saying that those who represent the imperial government in the absence of the Emperor declare emphatically that France will view political movements in Spain with "perfect serenity," to use their own phrase. Intervention at this moment would be so unwarrantable that there can be no reason to doubt the entire sincerity

of this declaration; but it is not difficult to foresee a conjuncture of circumstances which would be considered as justifying a departure from it, and it would be unwise to count upon it as the evidence of a settled policy. The most effective restraint, should any desire be felt to profit by the temporary disorganization there, is, no doubt, to be found in the hostile feeling which exists in Prussia and Italy against the Emperor and his government.

I am, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to Mr. Seward.*

No. 279.] LEGATION OF THE UNITED STATES,
*Paris, October* 19, 1868.

SIR: Your dispatch No. 205, in regard to Philip Brailly, was received last evening. He was released from imprisonment some time since. You will perceive, by the inclosed copy of a dispatch addressed by me to the Marquis de Moustier, on the 20th September last, that the case was promptly attended to as soon as it was brought to my notice. It turned out that Brailly, instead of going before one of the civil judges to show that he had been naturalized as a citizen of the United States, made his application to a council of war, under bad advice, and did not take with him the proofs of his naturalization.

On being advised officially of these facts by the Marquis de Moustier, I sent him a copy, certified under the seal of the legation, of Brailly's certificate of naturalization, and he was promptly released. The imperial government only asked that he should satisfy the established form of proceeding by going before a civil tribunal with his certificate and passport, and show that he had been naturalized as a citizen of the United States.

He was at the legation about a week ago to procure his certificate, and as I have heard nothing from him since, I have no doubt that the matter has been satisfactorily arranged. He spoke of the great kindness with which he had been treated by the imperial authorities, and regarded his confinement as a detention rather than an imprisonment.

I have the honor to be, very respectfully, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Dix to the Marquis de Moustier.*

LEGATION OF THE UNITED STATES,
*Paris, September* 30, 1868.

SIR: It has been reported to me that Philip Brailly, a citizen of the United States, naturalized on the 23d of August, 1858, has been condemned by *le premier consul de guerre* of Paris to six months' imprisonment for *insoumission*, and that he is now detained at the prison Rue du Cherche-Midi, No. 37.

The naturalization papers of Brailly are in possession of this legation, and they show him, as above stated, to have been a citizen of the United States more than 10 years.

His condemnation is so directly at variance with the principle by which similar cases have been decided by the imperial government, that I deem it only necessary to call

your excellency's attention to the subject to insure immediate action with a view to redress the wrong which has been committed.

In your excellency's dispatch of 27th June, 1867, concerning a case then pending, you said: "Mr. Karcher having lost the quality of a Frenchman for more than three years, the offense with which he is charged is now covered by prescription. The minister of war has, therefore, considered it his duty to direct that this individual, who, moreover, has been up to this time provisionally at large, and who has not been subjected to any judicial process, should be merely erased from the list of delinquents at the recruiting depot of the lower Rhine."

Your excellency will not be surprised, in view of the assurance conveyed by this decision, that the course of the *consul de guerre* in Brailly's case should be a source of extreme sensibility, and that your prompt interposition should be most earnestly invoked.

I avail myself of the occasion to renew the assurances of the very distinguished consideration with which I am, &c.,

JOHN A. DIX.

His Excellency the MARQUIS DE MOUSTIER,
*Minister of Foreign Affairs.*

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*Mr. Dix to Mr. Seward.*

No. 282.] LEGATION OF THE UNITED STATES,
*Paris, November 4*, 1868.

SIR: In my confidential dispatch, No. 255, of the 7th August last, I expressed the opinion that the question of disarmament was to become a very important one, and that it was already occupying in a quiet way the deliberate consideration of the most intelligent minds.

I recall this subject to your recollection for the purpose of referring you to the remarks of Lord Stanley at the banquet at Liverpool, given to Mr. Reverdy Johnson, as a confirmation of the views contained in my dispatch. He denounced the whole system of armament by the great European powers as destructive to their productive industry and a scandal to their civilization. This bold and unreserved censure from so eminent a source cannot fail to make a serious impression, and may induce the governments of the principal states to come to an understanding on this grave question, and to do voluntarily what will otherwise be forced upon them at no very distant day.

In support of the views I expressed to you, I inclose a translation of an article published last week in La France, a paper devoted to the interests of the imperial government, and at the same time an advocate of liberal reforms. It is supposed also to be strongly on the side of the Empress, and sometimes the exponent of her views. The financial ruin which the enormous military preparations of the great European states are bringing upon them is very forcibly presented.

I have the honor to be, very respectfully, yours,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[From the La France of October 30, 1868.—Translation.]

We confess it with profound sadness, what is passing at this moment is absolute folly. The continent cannot remain any longer in this state of mistrust, by which the material and moral credit of the governments are compromised, and both their finances and principles ruined at the same time. Prussia had a magnificent amount of money saved, and now she has arrived at a deficit; Austria and Italy are striking examples of the disasters entailed by excessive military expenditure; Turkey has long since been reduced to

borrowing to be able to pay the interest on her loans; Russia is struggling with expedients of paper money, like Italy and Austria; France has been obliged to ask, this year, 450,000,000 from the patriotism of the public, and if the present situation is prolonged, who can affirm that this sacrifice will be the last? Again, if it was only a question of money, the great nations would perhaps be rich enough to pay for their security at that price; but confidence is unsettled, opinion is excited, the public is agitated, and, not knowing exactly to what the general uneasiness is to be attributed, lays the responsibility on those who govern, and accuses at the same time both the men and the institutions. Let those who have charge of nations reflect, for the straightforwardness of their intentions and the clearness of their declarations do not suffice to calm the anxiety of interests and of minds. Like them, public opinion desires peace; but we believe that it wishes for tranquillity in another fashion than by optimist phrases, which seem to be contradicted by exaggerated armaments. The maxim of the ancient law, *si vis pacem, para bellum*, frightens instead of reassuring it. Only on that day will it be appeased when it shall see substituted, in the relations of states, for that doctrine of distrust, this axiom of true civilization: *Si vis pacem, para pacem.*

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*Mr. Dix to Mr. Seward.*

No. 286.] LEGATION OF THE UNITED STATES,
*Paris, November* 13, 1868.

SIR: I have the honor to inclose herewith a translation of a letter which I have received from Mr. Drouyn de Lhuys, late minister of foreign affairs in France, containing the expression of his thanks to you for a copy of the work entitled "Tributes of the Nations to Abraham Lincoln."

I am, sir, with great respect, your obedient servant,
JOHN A. DIX.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Drouyn de Lhuys to Mr. Dix.*

[Translation.]

PARIS, *November* 8, 1868.

SIR: I have the honor to thank you for the copy of a work, which you addressed to me, entitled "Tributes of the Nations to Abraham Lincoln," and I pray you to express to Mr. Seward my great and sincere gratitude for this kind souvenir.

I avail myself of the occasion to offer to you, sir, the assurance of the distinguished consideration with which I am your very humble and obedient servant,
DROUYN DE LHUYS.

General DIX, *&c., &c., &c., Paris.*

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## FRENCH LEGATION.

*Mr. Berthemy to Mr. Seward.*

[Translation.]

LEGATION OF FRANCE,
*Washington, March* 14, 1868.

SIR: On addressing you in the month of June, 1866, about the convention concluded at Geneva the 22d of August, 1864, in respect to the initiative of the Swiss federal council for the amelioration of the condi-

tion of soldiers wounded in the armies in the field, the Marquis de Montholon apprized you at the same time of the interest which the government of the Emperor attached to the work of humanity, which it was the object of that note to realize. Your excellency having stated, in answer to that communication, that you thought it your duty before replying to it to have an understanding with the Department of War, the minister for foreign affairs directs me to recall this question to the attention of the cabinet at Washington. I would therefore be obliged to you, Mr. Secretary of State, to please to inform me what decision the federal government have arrived at in relation to the international act of 1864.

Accept, Mr. Secretary of State, the assurances of my high consideration.

BERTHEMY.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Mr. Seward to Mr. Berthemy.*

DEPARTMENT OF STATE,
*Washington, March* 31, 1868.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, on the subject of the convention concluded at Geneva on the 22d of August, 1864, for the purpose of securing humane treatment to soldiers wounded in battle. In reply, I have the honor to state that although the object of the convention is believed to have been laudable, the military authorities of the United States have, in time of war, voluntarily observed the principal rules prescribed in the treaty, and are not likely to disregard them under any circumstances. The possibility that they might be disregarded by either of the parties to the instrument if at war with the United States, to the detriment of soldiers of this country, is believed to involve contingencies quite too remote and improbable to afford sufficient ground for us to enter into a treaty upon the subject.

It has always been deemed at least a questionable policy, if not unwise, for the United States to become a party to any instrument to which there are many other parties. Nothing but the most urgent necessity should lead to a departure from this rule. It is believed that the case to which your note refers is not one which would warrant such a course.

Accept, sir, the assurance of my high consideration.

WILLIAM H. SEWARD.

M. BERTHEMY, *&c., &c., &c.*

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*Mr. Seward to Mr. Berthemy.*

DEPARTMENT OF STATE,
*Washington, June* 10, 1868.

SIR: Herewith I have the honor to inclose for your information, and that of the government which you represent, a transcript of the correspondence* relative to the recent reception of the Chinese embassy by this government.

Accept, sir, a renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

M. BERTHEMY, *&c., &c., &c.*

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*For inclosure see correspondence with the Chinese embassy.

*Mr. Berthemy to Mr. Seward.*

[Translation.]

LEGATION OF FRANCE TO THE UNITED STATES,
*Washington, September* 25, 1868.

Mr. SECRETARY: A disagreement on the question of precedence now divides the diplomatic and consular body at Tangier. Some of its members have expressed the opinion that consuls general, though of inferior rank, ought to be allowed to exercise the functions of dean, by seniority, with the other representatives of foreign powers.

Though this proposal only concerns the future, it has given rise to a discussion, to which the Marquis de Moustier begs me to call your attention.

You are acquainted with the regulation of the congress of Vienna, which was intended to settle disputes of precedence that occurred so frequently in former times. The protocol of the 19th March, 1815, contains the following provisions:

ARTICLE 1. Diplomatic employés are divided into three classes:

1. Ambassadors, legates, or nuncios.
2. Envoys, ministers, or others accredited to sovereigns.
3. Chargés, accredited to ministers for foreign affairs.

ARTICLE IV. Diplomatic employés will take rank among themselves, in each class, according to the date of the official notice of their arrival.

The Congress of Aux-la-Chapelle, on the 21st November, 1818, also adopted an article in these terms:

To avoid unpleasant discussions in future upon a point of diplomatic etiquette, which was not settled at the Congress of Vienna, it is decreed by the five courts that ministers resident accredited to them shall form an intermediate class, according to rank, between ministers of the second order and chargés d'affaires.

These rules have been observed up to this time with general satisfaction; accepted by all civilized nations, they govern the reciprocal relations of their representatives, whenever assembled together. They plainly fix four classes of diplomatic employés, whose respective ranks of precedence are determined by the dates of their commissions among agents of the same class, but not among agents of a different class. Consuls and consuls general were not mentioned, because they are not considered as diplomatic employés, and are certainly subordinate to them; although we cannot now refuse them the title of public agents or ministers of the nations by which they are commissioned.

The principle which has served as a basis for this regulation is, that the rank of public ministers does not now depend, as formerly, upon the title of the prince they represent, or in the antiquity of his crown, or extent of his domain; for modern international law proclaims the juridical equality of all sovereign nations, by virtue of their independent existence, without regard to their comparative power. These nations have the right to fix the nature, title, and rank of their agents accredited to foreign governments. The relative inferiority of this title and of this rank does not disparage the dignity of the nations which these agents represent.

The authors of this reclamation at Tangier do not ignore the authority of these universally admitted maxims; but, by a strange interpretation, they undertake to establish the equality of rank among the ministers plenipotentiary and consuls general at that place. They contend that the latter have not only consular powers, but that they are political

agents, accredited by their sovereigns to the Sultan of Morocco, and, by the protocol of Vienna, are diplomatic employés of the second order.

As all the representatives of the foreign powers in Morocco are in the same condition, according to that assertion, they must all be regarded as belonging to the same rank, without regard to the difference in their titles.

It is plain that such a system is contrary to the spirit of the protocols of Vienna and Aix-la-Chapelle, and tends to destroy the classification those acts have established.

When the members of the Congress of Vienna had placed envoys and ministers plenipotentiary in the second class of diplomatic employés, and then added "and others accredited to sovereigns," it is plain they meant agents of the same kind, such as the internuncios of Austria to Constantinople, and they used the terms common at European courts at that time, for their definitions.

For certain easily explained reasons, the custom never prevailed in the Barbary States, where the instability of government and the uncertainty of everything oblige Christian nations to require the protection of the sovereign for their representatives as the only way to secure a continuance of friendly relations, and that is why those representatives are accredited to the sovereign. But this exceptional circumstance, based on local necessity and old traditions, cannot alter the reciprocal position of the agents of the different Christian nations as established by common consent.

Assuredly the government of the Emperor does not pretend that consuls shall not be clothed with a diplomatic character; for France has consuls general in many countries, particularly in the South American republics, who are clothed with diplomatic powers; yet they have always given precedence to ministers plenipotentiary and resident of other powers, and have never contended with them for the place of dean. Such, also, seems to be the situation of the consuls general of different countries who are charged, in Morocco, with the double care of commercial and political affairs. The title they bear proves the rank their governments assign to them, and which cannot be changed by an accidental formality. If it had been the intention of the government to mean otherwise, nothing would have been easier than to give those agents a higher title.

For these reasons the government of the Emperor hopes the government of the United States will instruct its representative at Tangier to put an end to this useless discussion.

It is proper that the status of such persons should be determined, so that the good understanding so necessary to success in all joint affairs may no more be disturbed. The honorary functions of dean are of less importance in Morocco than anywhere else; for it has long been customary in most joint questions, as health regulations, for the ministers and consuls to take turns at presiding over meetings for the settlement of such questions, without regard to his rank. But what is of the greatest importance to all Christian powers, is to preserve the standing of their representatives in the eyes of the natives, and not compromise it by futile rivalry.

Accept, Mr. Secretary of State, the assurance of my very high consideration.

BERTHEMY.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

*Mr. Seward to Mr. Berthemy.*

DEPARTMENT OF STATE,
*Washington, September* 30, 1868.

SIR: I have had the honor to receive your note of the 25th instant, in which you state that a disagreement on the subject of precedence exists among the diplomatic body at Tangier, and that some of them have expressed an opinion that consuls general, though of an inferior rank, ought to be allowed to exercise the functions of dean by seniority over the other representatives of foreign powers.

You further state that you have been instructed by the Marquis de Moustier to call my attention to the subject, which is quite new to me, as Mr. McMath, the consul of the United States at Tangier, has been silent in regard to it.

If nothing concerning it shall soon be received from him, his attention will be called to the subject, so that the government may be fully advised.

I avail myself of this occasion, sir, to offer to you a renewed assurance of my high consideration.

WILLIAM H. SEWARD.

M. BERTHEMY, *&c., &c., &c.*

# RUSSIA.

*Mr. Clay to Mr. Seward.*

No. 165.] LEGATION OF THE UNITED STATES,
*St. Petersburg, December* 2, 1867.

SIR: By note No. 4345 of M. de Westmann, adjunct of foreign affairs, &c., dated July 12, 1866, this legation was informed that Stanislas Pongoski, a native of Russian Poland, and an American citizen by naturalization, bearing an American passport, was banished from the Russian empire, because of a penal statute which punishes expatriation with a deprivation of all civil rights and perpetual exile from Russia. A similar case is now pending in the person of Adolphus Portugalski, who claimed my protection. In your former answer to the proceedings in the case of Pongoski, you left me in an uncertainty how to proceed, and, in consequence of the disturbed state of Poland and our friendly relations with Russia, I thought it best to take no notice of this act of the Russian government. Yesterday I called upon Prince Gortchacow, and had a frank conversation upon the subject, telling him we could never yield the right of protection to all of our citizens; that our government was based upon the principle of voluntary allegiance, and the doctrine that allegiance and protection were co-equal was held without dissent by all America. I also referred to the late (1812) war with England, and the case of Martin Kozta.

I suggested that the penalties for expatriation should not exclude the right to return as American citizen to Russia, and that the law ought to be repealed.

Prince Gortchacow replied that the laws of Russia towards her born subjects were supreme, and must be enforced. That America might do as she pleased at home, but could not presume to interfere with Russian-born subjects found on Russian soil, and by all the law of nations and reason subject to Russian law. In reply to my appeal that it could not be a subject of importance to Russia to banish the few American Poles who would return, he said, on the contrary, it could not be a matter of any vital interest for us to have a few Poles return to Russia, whereas, if they allowed such return, the designing and discontented would seek American citizenship and return with impunity, and, without committing themselves to open treason, would greatly endanger the safety of the empire. So nothing could be yielded in the premises. Under these circumstances I have thought it best not to raise the question of conflict of national rights till I knew the views of the home government. I wrote a note, marked unofficial, in which I refer to the case, and ask the friendly action of the foreign office to "restore Portugalski to all the rights of American citizenship." He will no doubt be sent at once out of Russia.

I have thought that it was not the intention of our government to contend for our extreme right at present, and anything short of this would produce ill-feeling, and only barren results.

I now refer the whole matter to you, and I shall obey your further and full instructions.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

P. S.—I have taken no official notice of the action of the Russian government in the case of Stanislas Pongoski, so you are at full liberty to treat the subject without embarrassment.

CLAY.

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*Mr. Clay to Mr. Seward.*

No. 167.] LEGATION OF THE UNITED STATES,
*St. Petersburg, December* 13, 1867.

SIR: I inclose you the following telegrams from the Hon. A. Burlingame. It seems he is made the commissioner of the Chinese government with treaty powers, and leaves at once for San Francisco, November 23, 1867.

I am in receipt of your despatches to No. 248 inclusive, with inclosures.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Washington, D. C.*

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*Mr. Burlingame to Mr. Seward.*

[Telegram.]

UNITED STATES LEGATION,
*Peking, November* 23, 1867.

Chinese empire appointed me envoy to treaty powers. Accepted. Leave at once for San Francisco.

ANSON BURLINGAME.

Hon. WILLIAM H. SEWARD, *Secretary of State, Washington, D. C.,*
*care of Cassius M. Clay, Esq., &c., &c., &c.*

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*Mr. Seward to Mr. Clay.*

No. 272.] DEPARTMENT OF STATE,
*Washington, December* 23, 1867.

SIR: Your dispatch of the 20th of November, No. 165, which relates to the case of Adolphus Portugalski, has been received.

The question which arose in that case is of kin to one which is now becoming the subject of earnest debate between the governments of the United States and Great Britain. It has an equal relationship to a question which has engaged the attention of the United States and Prussia. Certainly it would be desirable, if practicable, to avoid carrying the discussion into our intercouse with the imperial government at St. Petersburg.

I accept, therefore, and commend your discretion in disposing of the case of Portugalski informally, leaving only the abstract question to remain. I shall not lose sight of that question; but of course I shall try to treat it in a manner so considerate and friendly as to show the courteous good will and friendship of the United States towards Russia.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CASSIUS M. CLAY, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Clay.*

No. 273.] DEPARTMENT OF STATE,
*Washington, December* 23, 1867.

SIR: Much anxiety has been created in the United States by the report that Captain Mellen, master of the ship Europa, a United States whaling vessel, has written to the owners of the vessel that a party of Russians have established a fishery on the shore near Okhotsk City, in the sea of Okhotsk; that a Russian armed steamer has been there and ordered the ships all away; that the captain of the steamer said he was authorized to drive United States whalers away from the place; and, finally, that the captain of the steamer has fired upon the ship's boat of the bark Endeavor, of New Bedford.

Mr. De Stoeckl, to whom I have applied, has no information on the subject. The statements received at this department are altogether vague and without authentication. I will thank you to ascertain from the prime minister for foreign affairs what foundation, if any, there is for the statements, and what, precisely, are the instructions of the imperial government appertaining to the fisheries in the sea of Okhotsk.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CASSIUS M. CLAY, Esq., *&c., &c., &c.*

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*Mr. Clay to Mr. Seward.*

No. 171.] LEGATION OF THE UNITED STATES,
*St. Petersburg, January* 3, 1868.

SIR: Your dispatch No. 270 is received. I inclose you a statement of the minister of the interior, Mr. Valouïoff, in reference to schools, &c., in Russia. I was asked for the information, I believe, by one of the departments at Washington, or by the Smithsonian Institute. Please forward copy of it to the proper party.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

## SCHOOLS IN RUSSIA.

[*From the minister of the interior, M. Valouïoff*].

[Translation.]

Special technical instruction was introduced in Russia by Peter the Great. But nearly all the schools of that character which exist at this day have been founded under Alexander I and Nicolas I. In all these establishments the instruction preserved a corresponding character: the course of special learning was united in them with a course of general studies, resembling the course of the gymnasiums, (establishments of instruction of the second order.) Under the present reign the instruction in technical knowledge has received a decided reorganization; in the superior schools all studies, not of a special character, are discontinued, but the youth who enter these schools must submit to an examination, proving that their knowledge corresponds with the course of studies of the gymnasium.

*Agriculture.*—The great schools of agriculture are the Academy of Agriculture of Moscow, and the Institute of Agriculture of St. Petersburg. After the emancipation of labor, its price having risen, the government resolved to give a new scope to the agricultural productive force by the propagation of the knowledge of rural economy. With that view the government founded, at its expense, the Academy of Moscow, and reorganized the Institute of St. Petersburg. Besides those two superior establishments, there exist in Russia several other similar schools of an inferior character:

| | Personnel. | | Cost to the government. |
|---|---|---|---|
| | Teachers. | Pupils. | |
| | | | *Roubles.* |
| Institute of agriculture | ..... | ..... | 103,785 |
| Academy | 20 | 176 | 146,500 |
| Agricultural school of Kharkou | 6 | 59 | 74,300 |
| Agricultural school of Gorki, (government of Mohilew) | 6 | 94 | |
| Four metairies | 16 | 161 | 64,400 |
| Three schools of agriculture | 13 | 64 | 45,000 |
| Five forest schools | 15 | 215 | 52,600 |
| Oenology school, (Magaratch, in Crimea) | 2 | 9 | 2,350 |

Besides these establishments there exists at St. Petersburg a public museum of rural economy, newly founded, but already enriched by a fine collection.

*Mines.*—The necessity to know and to explore the immense mineral riches of Russia has moved the government to found several establishments devoted to the instruction in the science of mining. These are, the Institute of Mining of St. Petersburg, (superior school,) having an extensive and fine mineral museum; the Essayers' School of St. Petersburg; the Mining School of Catherinburg, and seven inferior schools in the mining districts of the Oural and Altaï mountains:

| | Personnel. | | Cost to the government. |
|---|---|---|---|
| | Teachers. | Pupils. | |
| | | | *Roubles.* |
| Mining institute | 36 | 141 | 114,000 |
| Essayers' school | 6 | 15 | 11,200 |
| Mining school | 7 | 24 | 12,000 |
| Seven schools in the districts | 22 | 254 | |

*Roads.*—This branch of technical knowledge has only one superior school, the Institute of Roads at St. Petersburg, with a museum of civil architecture.

Personnel: Teachers, 31; pupils, 210; cost to the government, 107,000 roubles.

*Arts and trades.*—Three establishments are employed to propagate the industrial arts. They are, the Technological Institute of St. Petersburg, the object of which is to educate manufacturers, and which is, at the same time, a sort of manufactory; the Artisans' School, and the School of Technical Designs of Moscow:

| | Personnel. | | Cost to the government. |
|---|---|---|---|
| | Teachers. | Pupils. | |
| | | | *Roubles.* |
| Technological institute | 41 | 409 | 148,605 |
| Artizans' school | 18 | 291 | 16,300 |
| School of designs | 25 | 357 | |

*Marine.*—Concerning navigation, there exists in Russia a Corps of Marine Cadets at St. Petersburg, a School of Pilots at Cronstadt—both establishments devoted to the education of officers for the navy—and four Schools of Navigation: at Riga, Kherson, Archangel, and Kem, devoted to the education of pilots for the commercial navy:

| | Personnel. | | Cost to the government. |
|---|---|---|---|
| | Teachers. | Pupils. | |
| | | | *Roubles.* |
| Corps of marine cadets | 33 | 162 | 174,000 |
| School of pilots | 24 | 143 | 62,300 |
| Four schools of navigation | 19 | 157 | 13,000 |

*Commerce.*—The central establishment for the propagation of commercial instruction is the Academy of Practical Sciences of Moscow, founded at the expense of the merchants. The establishments of the second order are, the Schools of Commerce of St. Petersburg, Moscow, Odessa, and Tiflis, founded by the aid of a subsidy furnished by the commercial order, and partially sustained by the government:

| | Personnel. | |
|---|---|---|
| | Teachers. | Pupils. |
| Academy of Moscow | 32 | 344 |
| School of St. Petersburg | 28 | 275 |
| School of Moscow | 20 | 160 |
| School of Odessa | 7 | 36 |
| School of Tiflis | 6 | 191 |

*Fine arts.*—There are in Russia several institutions, established by the government, at its expense, devoted to the study of the fine arts and the propagation of a taste for them. They consist of schools and museums. The central school of fine arts is the

Imperial Academy of Fine Arts at St. Petersburg. It embraces the five following classes: painting, sculpture, architecture, engraving, and mosaic. The study of the fine arts is there accompanied by a course of æsthetics, history of art, literature, and other sciences tending towards the perfection of the youth who enter into an artistic career. Those among them evincing a superior talent are sent, at the expense of the government, to foreign countries for a period of from four to six years. The academy has a library and a museum containing over 1,500 pictures of different schools, 500 pieces of sculpture, and collections of Byzantine and ancient Russian objects of art, medals, cameos, and engravings. A special sum of 10,000 roubles is appropriated annually to the academy for the encouragement of young artists.

The School of Painting and Sculpture of Moscow is considered as a branch of the academy of St. Petersburg.

A School for Civil Architecture, attached to the Department of the Interior, was instituted for the special purpose of educating architects for the provinces:

| | Personnel. | |
|---|---|---|
| | Teachers. | Pupils. |
| Academy of fine arts | 23 | 500 |
| School for painting and sculpture | 20 | 161 |
| School for civil architecture | 32 | 104 |

The Imperial Museum of the Hermitage consists of several artistic collections. These are—

1. A gallery of 1,631 paintings, of which 327 belong to the Italian school, 115 to the Spanish school, 944 to the Flemish, Hollandish, and German schools, 172 to the French school, 8 to the English school, and 65 to the Russian school.
2. A gallery of Egyptian, Assyrian, Greek-Roman, and modern sculpture—361 pieces belonging to the Greek-Roman school, and 42 to the modern schools.
3. A collection of painted vases, said to be Etruscan—1,786 pieces.
4. A collection of antique bronze objects—343 pieces.
5. A collection of antique objects of baked clay—543 pieces.
6. A numerous collection of antiquities of Kertsch, and from the Greek colonies of the shores of the Black Sea.
7. A collection of 11,740 sketches, made by painters of different schools.
8. A collection of 200,000 engravings.
9. A library of 1,030 manuscripts, of which 140, in the Russian, Latin, French, German, and Italian languages, are adorned with miniatures.
10. A library of printed books.

The Public Museum of Moscow, newly instituted, is composed of various collections. Among them are—

1. A collection of objects of art, (ancient and modern sculpture, paintings of different schools, a collection of engravings.)
2. A collection of Christian, Byzantine, and Russian antiquities.

Both museums are accessible to the public during the entire year.

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*Mr. Clay to Mr. Seward.*

No. 175.] LEGATION OF THE UNITED STATES,
*St. Petersburg, January* 18, 1868.

SIR: I now transmit to you a copy of my note to Prince Gortchacow in reference to the Okhotsk's affair, marked A, and also a copy of his reply, through the adjunct of the minister of foreign affairs to his imperial Majesty, M. de Westmann, marked A B.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Clay to Prince Gortchacow.*

A.

NOTE 149.] LEGATION OF THE UNITED STATES,
*St. Petersburg, Russia, January* 18, 1868, *N. S.*

The undersigned has the honor to represent to his excellency Prince Gortchacow, chancellor, &c., to his imperial Majesty, &c., that he is instructed by the Washington government to inform the imperial government that much anxiety has been created in the United States by a report from Captain Mellen, of the American whaling ship Europa, to its owners, that a party of Russians had established a fishery near the city of Okhotsk, in the sea of that name, and that a Russian armed steamer had ordered the ships away in the name of the Russian government, claiming to be so authorized; and that the captain of said steamer had fired upon the boats of the bark Endeavor, of New Bedford.

Mr. de Stoeckl has been able to give no information upon the subject. The Secretary of State adds that the statements received at the department are altogether vague and without authentication, and he therefore requests of the undersigned to ascertain from his excellency Prince Gortchacow what are precisely the instructions, if any, given by the Russian government in regard to the fisheries in the Sea of Okhotsk.

The American minister has the honor to assure his excellency, the chancellor of the empire, of his most distinguished consideration.

C. M. CLAY.

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*Mr. Westmann to Mr. Clay.*

A B.

[Translation from the French.]

The chancellor of the empire, who is sick, as you know, my dear general, has charged me to answer your note of the 6th–18th of January, instant. Having asked (*demandé*) of the minister of marine information upon the affair named in your note, Admiral Krabbé has just informed us that the minister of marine has not, up to the present time, any knowledge of the conflict (*conflit*) which has taken place in the Sea of Okhotsk between the Russian and American ships.

Accept, my dear general, of my expression of the most distinguished consideration,

WESTMANN.

JANUARY 5, 1868.

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*Mr. Clay to Mr. Seward.*

No. 176.] LEGATION OF THE UNITED STATES,
*St. Petersburg, January* 18, 1868.

SIR: Since I have been at this court the death of no one outside of the imperial family has created so much regret as that of Prince Bazil Dolgorouky, who suddenly died on yesterday night. At near midnight his imperial Majesty and the Grand Duke Heritier hurried at once to the death scene. And to-day her imperial Majesty and the most distinguished perons in St. Petersburg attended the prayers for the departed prince. The funeral in state will take place Monday next. Prince Dolgorouky has been minister of war, and has filled many high offices in Russia, and at his death was aide-de-camp general and grand chamberlain to the Emperor, by whom, perhaps, he was most loved of all his subjects. Though at the head of the old aristocracy, and the center of the *élite* of Russian society, he was our most cordial and trusting friend. But a few days ago he, in conjunction with Count Strogonoff, the brother-in-law of his imperial Majesty, gave me their photographs and autographs, as

souvenirs of their personal and political friendship; but he was, alas, the first to quit the scene of our long and most agreeable association. Such is life—and death!

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Clay.*

No. 278.] DEPARTMENT OF STATE,
*Washington, February 24, 1868.*

SIR: I recur on this occasion to my dispatch No. 273, which related to alleged hostile demonstrations of a Russian armed vessel against a United States whaling vessel in the sea of Okhotsk. That communication was grounded upon mere rumor, which furnished no details and was supported by no evidence. Prince Gortchacow, in his reply, answered substantially that the Russian government had no information of the alleged conflict, and had given no orders or directions under which any hostile demonstrations could have been made.

At last I have received details which, however, are very limited, and testimony which is very incomplete. This subsequent information is contained in a dispatch of Morgan L. Smith, esq., United States consul at Honolulu, which is accompanied by a deposition made by Manuel Enos, master of the American bark Java. In brief, Mr. Enos's statement presents the following facts, namely: that on the 27th of July, while he was cruising for whales in Shantar bay, and standing towards Silas Richard's bluff, a Russian armed vessel came towards him apparently under full steam, hoisted its flag, and threw open its ports. An officer from that Russian vessel went on board of the Java and ordered Captain Enos immediately on board the Russian steamer. The Russian commander demanded to know the business of the United States vessel there. Captain Enos answered that his business was whaling, whereupon the Russian commander ordered Captain Enos to leave the bay within 24 hours, under a threat of taking Captain Enos with his vessel to Nicolawasky, or blowing him out of the water, as the Russian captain should think proper. Captain Enos replied that he had whaled in those bays for the last 17 years, and had never heard of any one being driven out, or of any purpose of excluding whalers. Captain Enos thereupon immediately left Shantar bay. Captain Enos further says that he afterwards learned from some of the crew of the American bark Endeavor, that they, knowing nothing of the trouble, went into the same place, Shantar bay, a few days afterwards, and that their boats were fired into by the same vessel before mentioned, and that they were commanded to leave the bays by threats to the same effect with those which had been made against Captain Enos. The consul transmitting this statement says that he has been unable to procure the name of either the Russian vessel or her commander; that he is informed by the master of the English bark Cobang, that some Finns, subjects of the Czar, have a whaling station there, keeping two schooners in the bay, and having their trying works on shore. If we were at liberty to assume these special statements to be true, and if we were not assured by the Russian government that the transactions complained of occurred not only without its knowledge, but without any authority, we should in that case have reason for profound concern.

As the matter stands, with the possibility that similar armed hostile demonstrations may be made on the same quarter, there is reason to apprehend that discontent will arise and perhaps conflict may occur between citizens of the United States and the subjects of Russia in the Sea of Okhotsk. Nothing could be more inconvenient than such difficulties at the present moment, as I am well assured nothing could be more sincerely deprecated by the Russian government.

You will give a copy of this communication to Prince Gortchacow, and of its accompaniments, Consul Smith's dispatch and Captain Enos's deposition, and invite Prince Gortchacow to give his attention to the same at his reasonable convenience.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CASSIUS M. CLAY, Esq., *&c., &c., &c.*

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*Mr. Smith to Mr. F. W. Seward.*

No. 43.] CONSULATE OF THE UNITED STATES,
*Honolulu, December 27*, 1867.

SIR: I have the honor to inclose a certified copy of the deposition of Manuel Enos, master of the American whaling bark Java, in relation to his having been driven out of Shantar bay by a Russian vessel of war.

I have been unable to procure the name of either the Russian vessel or her commander. Shantar bay is situate in the Okhotsk sea, latitude 58° north. I am informed by the master of the English bark Cobang, that some Finns, subjects of the Czar, have a whaling station there, keeping two schooners in the bay, and having their trying works on the shore.

I have the honor to be, very respectfully, your obedient servant,

M. L. SMITH, *Consul.*

Hon. F. W. SEWARD,
*Assistant Secretary of State, Washington, D. C.*

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Manuel Enos, after being duly sworn, deposes and says, that he is master of the American bark Java; that on the 27th day of July last past, while cruising for whales in Shantar bay, standing towards Silas Richards' bluff, boiling, we raised a smoke towards Shantar gut, which I supposed to be another whaler trying out; soon after, however, we discovered it to be a Russian steamer coming towards us, apparently under full steam, hoisting his flag and throwing open his ports. I ran up my ensign and hauled aback. An officer came on board and ordered me immediately on board the steamer. On arriving on board the Russian vessel, the commander wanted to know what I was doing there. I told him whaling, of course. Without more ado I was ordered to leave the bays within 24 hours. I told him I had boats in Mercury bay, and could not leave until I had them on board. His answer was: "Boats or no boats, within 24 hours you *must leave*, or you will be taken to Nikolaievsk or blown out of water, as I shall think proper." I told the commodore that I had "whaled it" in these bays for the last 17 years, and had never heard of any one being driven out, nor even a whisper that such might be the case at some future time. My boats very opportunely returned the same night, and I left Shantar bay.

I was afterwards told by some of the crew of the American bark Endeavor that, knowing nothing of the trouble, they came there a few days after, and had their boats fired at by the same vessel. They immediately pulled for their vessel, and were not troubled further than to receive the same orders that I had.

MANUEL ENOS.

Subscribed and sworn to before me, on the 17th day of December, 1867.

M. L. SMITH,
*United States Consul.*

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CONSULATE OF THE UNITED STATES OF AMERICA,
*Honolulu, H. I., December 27*, 1867.

I, the undersigned, consul of the United States of America for Honolulu and the dependencies thereof, do hereby certify that the foregoing deposition, subscribed and

sworn to by Manuel Enos, master of the American bark Java, is a true and faithful copy of the original, filed in this consulate, the same having been carefully examined by me, and compared with the said original and found to agree therewith word for word and figure for figure.

Given under my hand and the seal of this consulate, the day and year above written.

[SEAL.]

———— ————,
*United States Consul.*

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*Mr. Clay to Mr. Seward.*

No. 183.] LEGATION OF THE UNITED STATES,
*St. Petersburg, March* 20, 1868.

SIR: To-day I received from Prince Gortchacow a note of this date, in reference to the affairs of the Java, in the Sea of Okhotsk. I inclose you a translation of the same from the French.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation from the French.]

By his note of March 4–16 instant, Mr. Clay, envoy extraordinary and minister plenipotentiary of the United States of America, has transmitted to the imperial ministry a copy of a dispatch from Mr. Seward, accompanied with documents relative to the complaint of Señor Enos, captain of an American whaler, upon the subject of measures of rigor ("de measures de rigeur") of which he had been the object on the part of a vessel of the imperial marine in the waters of the Sea of Okhotsk. In response to that communication, the undersigned, chancellor of the empire, has the honor to inform Mr. Clay that the imperial ministry has not received, up to this time, the information which, from the reception of his first note of the 18th of January, it hastened to demand of the competent authorities relative to that affair.

As soon as the reports of those authorities shall reach him, the undersigned will lose no time (s'empressera) in communicating them to Mr. Clay.

He seizes, in the mean time, this occasion to renew to him the assurance of his very distinguished consideration.

GORTCHACOW.

ST. PETERSBURG, *March* 8, 1868.

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*Mr. Clay to Mr. Seward.*

No. 187.] LEGATION OF THE UNITED STATES,
*St. Petersburg, April* 17, 1868.

SIR: As I had proposed, I now say a word once more in reference to the "eastern question." As you are no doubt advised from other sources, the understanding between Russia and the western powers in reference to Turkey is becoming more pacific. My opinion was that Russia neither desired nor anticipated war with Turkey; but was strengthening herself with the Christian populations of the south of Europe, as an offset to the discontented Poles of the Roman church. I send you some statistics, from official sources, in regard to the commerce of Russia with Asia—the direction her ambition is really taking. The whole exportation and importation together, between Russia and Asia, in 1866, was 46,573,586 roubles; that is 5,318,859 roubles more than in 1865. The Russian exportation was 21,858,803 roubles, and the imports 24,714,783 roubles, an increase of 3,934,495 roubles in exports, and 1,385,864 roubles in

imports over the year 1865. The commerce, from the figures of the last 10 years preceding 1866, shows an aggregate increase of 66 per centum. Thus, while Russia has been carrying on an aggressive or defensive war along the whole border of Asia at times, the commerce with that continent has steadily and is steadily increasing. Thus, while Russia is expanding her domain, she is at the same time enlarging her commerce. The result is civilization of Asia, by putting a part of it under a noble government, and consolidating the power and the peace of the Asiatic nations which remain independent, both of which processes inure to the common benefit of the Asiatic races. The predatory bands, which are ever revolutionary and antagonistic to all development, are subjected to force and law; and the others are checked by fear, and consolidated by the instincts of self-preservation and the power of example. In the mean time Russia carries on the war in central Asia, and colonizes in northern China and the isles of Japan, thus making "points d'appui" for future movements, either political or commercial, with those great centers of population and wealth. All the nations are looking in the same direction, and I therefore call the attention of our government once more to the necessity of our now having some formidable stand-point in the seas bordering on Japan and China, where our armies and navies may rest secure. The mission of Mr. Burlingame may present a favorable opportunity to accomplish so desirable an acquisition.

I am, sir, your most obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Clay to Mr. Seward.*

No. 199.] LEGATION OF THE UNITED STATES,
*St. Petersburg, August* 14, 1868.

SIR: I herein inclose you a translation of the note, from the French of Mr. de Westmann, acting minister of foreign affairs, &c., and a copy of my response in reference to the affair in the Sea of Okhotsk.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Westmann to Mr. Clay.*

[Translation.]

The undersigned, acting minister of foreign affairs, in referring to the note which General Clay, envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to addres to the chancellor of the empire, dated the 4–16th of March ultimo, has the honor to inform him that he has been put in possession of advices which, according to the desire of the federal government, the imperial cabinet hastened to ask of the minister of marine concerning the incident occurring in the Sea of Okhotsk, between an American whaler and a ship of the imperial navy. These are the circumstances: The schooner Aleout, under the command of Lieutenant Etoline, had been sent in commission from Nikolaievsk to Oudrk. The abundance of floating ice having forced him to enter into the Gulf of Tougoursh, he there met, the 14th of July, at about 20 miles to the south of the Straits of Chantusk, near the eastern coast, the American whaler Java, occupied in rendering the oil of a captured whale. Con-

sidering that foreign whalers are forbidden by the laws in force to fish in the Russian gulfs and bays at a distance less than three miles from the shore, where the right of fishing is exclusively reserved to Russian subjects, Lieutenant Etoline warned (*invita*) the captain of the Java, to "bear off" from the Gulf of Tougourah, which he at once did. The same day, the Aleout made for the Bay of Mawgau, where arrived, on the next day, the American whale-schooner Caroline Foot, whose captain, accompanied by the captain of the Java, called on Lieutenant Etoline, and declared that he had no right to prevent them from fishing for whales wherever they liked. Lieutenant Etoline replied that there were in that respect established rules, (*règles,*) and if they insisted, absolutely, upon breaking them, that he would be compelled to prevent them. The captain of the schooner Caroline Foot pretending (*ayant prétendue*) that he had entered into the Bay of Tougourah in consequence of "deviations from his course," Lieutenant Etoline offered, at once, all assistance in his power, and, upon request, delivered him seven poods of biscuit from the stores of the Aleout. After which the two ships again went to sea. The 19th of July, that is, four days afterwards, the schooner Aleout met a whale, upon which the commander caused a trial fire to be made. At the same moment was seen, at about 16 miles' distance, a sail, name unknown, and nearer, three "chaloupes," the nearest of which was at least three miles in advance in the direction of the cannon fire. In the evening all these ships had disappeared. That incident is registered in the books of the Aleout in the following terms: "The 19th of July, at nine in the evening, at anchor in the Bay of Mawgaus, fired a cannon shot for practice at a whale afloat." From these facts General Clay will be convinced that the incident alluded to has been exaggerated, and even perverted, (*de naturé,*) much in order to be represented as a cause of grievance against the commander of the Aleout on the part of the American whalers. In consequence of the conversation which had occurred between them, of the pretensions of the captain of the Java to fish wherever he pleased, and the necessity in which Lieutenant Etoline was placed to remind him of the laws which related to the right of fishing in the territorial waters of a foreign state, it is possible that the commander of the Java had really taken for a menace directed against him the fire of the experimental shot from the Aleout. But it is incontestable that the commander of the Aleout was acting in his right when he reminded the Americans of the laws in vigor, and his obligations to cause them to respect them. He certainly has not transcended the limits of his rights in firing, four days afterwards, a trial shot upon a floating whale in Russian waters.

He had no intention by that of giving the American whalers a warning, (*avertissement,*) useless because they were out of difficulty, and since the distance which separated the Aleout from the ships and the "chaloupes" in view at the time excluded all such intentions. Lieutenant Etoline had taken in their behalf proceedings conformable to the good relations between the two countries, since he had offered them his assistance in repairing their deviations from their course, and in providing them with provisions. Finally, the commander of the Aleout has not thought it necessary to inform the authorities of that incident, because it appeared to him of no importance, (*insignifiant,*) and because on his part he was conscious of not having transcended his rights, nor of having been wanting in his duty.

The undersigned flatters himself with the hope that the federal government, informed of these details, will consider the affair as settled, (*l'incident comme vidé.*) He seizes at the same time this occasion to renew to General Clay the assurances of his most distinguished consideration.

WESTMANN.

ST. PETERSBURG, *July* 31, 1868.

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*Mr. Clay to Mr. Westmann.*

LEGATION OF THE UNITED STATES,
*St. Petersburg, August* 2–14, 1868.

The undersigned has the honor to acknowledge the receipt of note No. 2530 of his excellency, M. de Westmann, acting minister of foreign affairs, &c., dated July 31, ultimo, 1868, O. S., in reference to the affair in the Sea of Okhotsk, which he will hasten to lay before his government.

Whilst the United States are justly jealous of all their maritime rights, the American minister believes that his government, having had many signal proofs of the friendly sentiments of his imperial Majesty's navy, will be slow to believe that they or any portion of his imperial Majesty's subjects would designedly invade them.

The minister of the United States begs to renew to his excellency, the privy counsellor, assurance of his most distinguished consideration.

C. M. CLAY.

*Mr. Seward to Mr. Clay.*

No. 295.] DEPARTMENT OF STATE,
*Washington, August* 31, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 14th of August, No. 199, which is accompanied by a note which was addressed to you on the 31st of July last, by Mr. de Westmann, acting minister of foreign affairs, and which contains the long-looked-for explanation of the collision which occurred in the Sea of Okhotsk between the commandant of a Russian ship of war and two United States whaling vessels, and which was made a subject of inquiry by this government. In substance the explanation is, that Lieutenant Etoline, commanding the Russian war schooner Aleout, on the 14th of July, 1867, was entering the Gulf of Tougoursh, and was about 20 miles to the north of the Straits of Chautusk, near the eastern coast, when he discovered the United States whaling ship Java occupied there in rendering the oil of a captured whale. The lieutenant had no special orders or instructions or charge from his government concerning these United States whalers, or indeed any whalers, in Russian waters far from or near the coast of Russia. Moved, however, by the consideration that Russia enjoys the undeniable right of admiralty in all waters lying within three miles of her territory, Lieutenant Etoline warned the captain of the Java to bear off from the Gulf of Tougoursh. The captain of the Java immediately moved away, in prompt compliance with this warning. On the next day the Aleout was in the Bay of Mawgan. The captain of the United States whaling schooner Caroline Foote accompanied the captain of the Java, who called upon Lieutenant Etoline. Then Lieutenant Etoline represents that the captain of the Java on that occasion remarked that Lieutenant Etoline had no right to prevent their fishing for whales wherever they liked. In reply to this general assertion Lieutenant Etoline said that there are regulations, and that if the captains of the whalers should insist on breaking those regulations he would be obliged to prevent them. Here the conversation ended. Thus far nothing was done by either of the captains of the whaling vessels which could be considered as an invasion or violation of Russian jurisdiction. The conversation was a desultory one, having no practical bearing upon any proceeding ever before or after attempted, or even contemplated, by either party.

The parties, indeed, have mutually expressed themselves with some indiscretion. Lieutenant Etoline does not allege that the whaling ship Java was within three miles of the shore when he warned her to bear off. On the other hand, the captain of the Java spoke unwarrantably when by implication he denied that the Russian authorities have a right to prevent foreign vessels from fishing for whales within three marine miles of their own shore. Lieutenant Etoline then offered assistance and furnished provision to the schooner Caroline Foote, which vessel was then in distress; this proceeding was commendable, and it is appreciated by this government. Here this merely accidental intercourse between the commanders of the Aleout and of the United States whalers Java and Caroline Foote practically ended, and certainly without having offered any serious ground of complaint to the government of either party against the other. The transaction, nevertheless, had a sequel, and this sequel resulted in a misunderstanding on the part of the captains of the whalers. Four days after the vessels had parted in the Bay of Mawgan, the Aleout met a whale afloat. The commander ordered a cannon to be

fired at the whale by way of a trial shot. At the same moment there appeared, at about 16 miles' distance, a sail, name unknown, and nearer, three chaloupes, the nearest of which was more than three miles distant from the Aleout, but all in the direction of the cannon shot. In the evening all of these vessels had disappeared. It is to be presumed that the Java was one of those vessels. The captain of the Java, hearing the report of this trial fire of the Aleout, seemed to have referred it to the conversation he had had four days before with Lieutenant Etoline, and so he has, not unnaturally, represented the transaction to this government as one in which the Russian officer had fired upon his whaling vessel with an intention to drive him from the Sea of Okhotsk.

Lieutenant Etoline disavows and denies the construction thus put upon his proceeding in the transaction, and the denial is rendered entirely credible by the fact that he set down only the fact of his firing at the whale in his log-book, and of the vessels seen in the distance; nor did he think his proceeding of such importance or interest as to report it to his government, and he was surprised when informed of the construction which the captain of the Java had put upon it.

In any case, the disavowal by the Russian government of any hostile or unfriendly direction, instruction, or sanction of any proceeding or intention unfriendly to the United States, is quite abundant for the satisfaction of this government.

You will give a copy of this communication to Mr. de Westmann.

I am, sir, your obedient servant,

WILLIAM H. SEWARD

CASSIUS M. CLAY, Esq., *&c., &c., &c.*

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*Mr. Clay to Mr. Seward.*

No. 213.] LEGATION OF THE UNITED STATES,
*St. Petersburg, October* 19, 1868.

SIR: I have just received the following note, No. 6929, from the adjunct minister of foreign affairs, which I translate from the French:

ST. PETERSBURG, *October* 7–19, 1868.

Mr. ENVOY: I have the honor to inform you that the imperial ministry has duly received the two volumes containing the diplomatic correspondence in reference to the late President Lincoln, which accompanied the note of the United States legation of the 3–15th September last, and to beg you at the same time to be pleased to transmit to the Congress the thanks of the imperial government and of the chancellor of the empire for the gift (l'envoi) of that publication of such great and legitimate interest.

Receive, Mr. Envoy, &c., &c.,

WESTMANN.

Mr. General CLAY, *&c., &c.*

I am, sir, your obedient servant,

C. M. CLAY.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

## RUSSIAN LEGATION.

### *Mr. Seward to Mr. de Stoeckl.*

DEPARTMENT OF STATE,
*Washington, December* 23, 1867.

SIR: I have the honor to inclose an extract from a dispatch of the 14th of September last, addressed to me by H. G. O. Chase, esq., the vice-commercial agent of the United States at Nikolaievsk, Amoor river, in relation to the alleged interference with American whaling ships in the Okhotsk sea, and to the reported firing into one of them by Russian naval vessels.

I will thank you to inform me whether you have received any information on this subject.

Accept, sir, a renewed assurance of my highest consideration,

WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

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*Mr. Chase to Mr. Seward.*

[Extract.]

No. 12.] COMMERCIAL AGENCY OF THE UNITED STATES AT AMOOR RIVER,
*Nikolaievsk, September* 14, 1867.

SIR: * * * * * * * * * * * *

From a reliable source I am informed that the commander of the Russian government steamer Aleout, which was in the Okhotsk sea not long since, warned out of the bay, near Shantar islands, some American whaleships which were found there. One of these, the Java, I am informed, not complying with sufficient promptitude, was fired at with solid shot, whereupon she took her departure.

* * * * * * * * * * *

I have the honor to be, very respectfully, your obedient servant,

H. G. O. CHASE,

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Stoeckl to Mr. Seward.*

[Translation.]

IMPERIAL LEGATION OF RUSSIA TO THE UNITED STATES,
*Washington, December* 16–28, 1867.

Mr. SECRETARY OF STATE: I had the honor to receive the note you were pleased to address to me on the 23d of this month, as well as an extract from the report of the United States commercial agent at Nikolaievsk, which was annexed.

I have room to believe that the incident in question was the result of exaggeration or of misunderstanding.

I will address my government without delay on this subject, and will not fail to communicate to you the reports which will be sent to me.

Please accept, Mr. Secretary of State, the assurance of my very high consideration.

STOECKL.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

## *Mr. Seward to Mr. de Stoeckl.*

DEPARTMENT OF STATE,
*Washington, January* 24, 1868.

SIR: I have the honor to communicate, for the information of the Russian government, a copy of a report of General Lovell H. Rousseau, United States agent to receive the transfer of Alaska.

Accept, sir, a renewed assurance of my highest consideration,
WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

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### *Brigadier General Rousseau to Mr. Seward.*

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
*Portland, Oregon, December* 5, 1867.

SIR: I have the honor to report that, on the receipt from you of my appointment by the President as United States commissioner to receive the formal transfer of the Territory of Alaska, and also your instructions touching that transfer, I repaired at once to New York to make the necessary preparation to sail on the 21st of August, but on reaching that city I found it impossible to get off on that day.

I sought and obtained at once an interview with Baron Stoeckl, the Russian minister, and Captain Pestchouroff, of the Russian imperial navy, and Captain Koskul, representing the Russian American Company; and it was arranged that we should sail from New York on the 31st August, and we accordingly sailed on that day, via Panama, reaching San Francisco, California, on the 22d September. As we entered the harbor of San Francisco the batteries of the forts fired a salute.

On reaching San Francisco, we found the preparations for taking military possession of the new Territory completed by Major General Halleck, who had ships laken with supplies for the troops, and transportation all ready for the troops themselves to Sitka.

Admiral Thatcher, also, had provided transportation for the commissioners on the propeller man-of-war Ossipee, Captain Emmons commanding. Returning the admiral's call, visiting him on board his flag-ship Pensacola, the commissioners received a salute of her batteries.

Hastening in preparation, we took our departure for Sitka on the morning of the 27th of September.

When we set sail, we intended to go directly by the open sea to New Archangel, but after three or four days, during which the sea was very rough, with little or no wind, and making very slow progress, we concluded to go by way of Victoria and the straits, thus taking the inland passage. The troops and supplies had preceded us a day or two from San Francisco, and as they could not land at Sitka before we reached there, it was thought best to take the inland route in order to insure our arrival at the latter place certainly within a reasonable time. This we could not do in the open sea, as it was quite rough, and what wind we had or expected to have in October and till the middle of November was from the northwest, (a head wind for us.)

Our ship was very slow, and with a head wind or rough sea made not more than two to four knots an hour. The winds in the northern Pacific, from May to November inclusive, are from the northwest generally, and the balance of the year from the southeast. Besides, I suffered greatly from sea-sickness, followed by what I feared was congestive chills, and sought to avoid this suffering by taking the inland passage.

We reached Esquimalt, Vancouver's island, on the night of the 4th of October, took in a supply of coal, and steamed for Sitka on the morning of the 6th. After a pleasant passage, taking it altogether, we cast anchor in the harbor of New Archangel on the 18th of October, at 11 o'clock a. m., where we found the troops and supplies had preceded us several days. The day was bright and beautiful. We landed immediately, and fixed the hour of three and a half o'clock that day for the trasfer, of which General Jeff. C. Davis, commanding the troops there; Captain Emmons, United States ship Ossipee; Captain McDougall, United States ship Jamestown; Captain Bradford, United States ship Resaca, and the officers of their respective commands, as also the governor of the Territory, the Prince Maksontoff, were notified, and invited to be present.

The command of General Davis, about two hundred and fifty strong, in full uniform, armed, and handsomely equipped, were landed about three o'clock, and marched up to the top of the eminence on which stands the governor's house, where the transfer was to be made. At the same time a company of Russian soldiers were marched to the

ground, and took their place upon the left of the flag-staff, from which the Russian flag was then floating. The command of General Davis was formed under his direction, on the right.

The United States flag to be raised on the occasion was in care of a color-guard—a lieutenant, a sergeant, and ten men of General Davis's command.

The officers above named, as well as the officers under their command, the Prince Maksontoff, and his wife the Princess Maksontoff, together with many Russian and American citizens, and some Indians, were present.

The formation of the ground, however, was such as to preclude any considerable demonstration.

It was arranged by Captain Pestchouroff and myself that, in firing the salutes on the exchange of flags, the United States should lead off, in accordance with your instructions, but that there should be alternate guns from the American and Russian batteries, thus giving the flag of each nation a double national salute; the national salute being thus answered in the moment it was given. The troops being promptly formed, were, at precisely half-past three o'clock, brought to a present arms, the signal given to the Ossipee, (Lieutenant Crossman, executive officer of the ship, and for the time in command,) which was to fire the salute, and the ceremony was begun by lowering the Russian flag. As it began its descent down the flag-staff the battery of the Ossipee, with large nine-inch guns, led off in the salute, peal after peal crashing and re-echoing in the gorges of the surrounding mountains, answered by the Russian water battery, (a battery on the wharf,) firing alternately. But the ceremony was interrupted by the catching of the Russian flag in the ropes attached to the flag-staff. The soldier who was lowering it, continuing to pull at it, tore off the border by which it was attached, leaving the flag entwined tightly around the ropes. The flag-staff was a native pine, perhaps 90 feet in height. In an instant the Russian soldiers, taking different shrouds attached to the flag-staff, attempted to ascend to the flag, which, having been whipped around the ropes by the wind, remained tight and fast. At first (being sailors as well as soldiers) they made rapid progress, but laboring hard they soon became tired, and when half-way up scarcely moved at all, and finally came to a stand-still. There was a dilemma; but in a moment a "boatswain's chair," so called, was made by knotting a rope to make a loop for a man to sit in and be pulled upward, and another Russian soldier was soon drawn up to the flag. On reaching it he detached it from the ropes, and not hearing the calls from Captain Pestchouroff below to "bring it down," dropped it below, and in its descent it fell on the bayonets of the Russian soldiers.

The United States flag (the one given to me for that purpose, by your direction, at Washington) was then properly attached and began its ascent, hoisted by my private secretary, George Lovell Rousseau, and again the salutes were fired as before, the Russian water battery leading off. The flag was so hoisted that in the instant it reached its place the report of the last big gun of the Ossipee reverberated from the mountains around. The salutes being completed, Captain Pestchouroff stepped up to me and said: "General Rousseau, by authority from his Majesty the Emperor of Russia, I transfer to the United States the Territory of Alaska;" and in as few words I acknowledged the acceptance of the transfer, and the ceremony was at an end. Three cheers were then spontaneously given for the United States flag by the American citizens present, although this was no part of the programme, and on some accounts I regretted that it occurred.

Captain Pestchouroff, the governor, and myself, on the Monday following, went to work to distinguish between the public and private buildings in the town of New Archangel, and giving certificates to private individual owners of property there.

I found that by the charter of the Russian American Company it had authority to vest in its employés, occupants of land in the Territory, the title thereto. This was on condition, however, that the possessions of the Indians should not be interfered with.

Acting under this charter, the company from the first caused dwellings to be erected for the use of its employés, on lots of ground set apart for that purpose. The title in fee to such premises was often invested in the employé in possession when he had faithfully served out his term with the company; or, having died before it ended, and having a widow or children in the Territory, the title was frequently vested in them.

This was one mode adopted by the company of taking care of its employés when, by old age or other disability, they were unable to maintain themselves, and of their widows or children after their death. So the employé generally occupied such dwelling while he lived, and at his death it passed to his widow or children, if any in the Territory; and if none, then it reverted to the company.

The term of service of these employés was somewhat similar to an apprenticeship in our law. It was fixed by the charter at five years, the company paying certain wages, which were small, and furnishing the necessary supplies, and presenting a bonus, named in the contract, to the employé at the end of his term of service.

In some instances, not many, the employés brought with them their wives from Russia, but far more frequently they were unmarried men, and intermarried with Indian women in the Territory.

By a provision of the charter, or by a rule of the company, to which it conformed in all cases as to a law, an old and disabled employé, while he lived in the Territory, and his widow and children after his death, (so long as the children were unable to maintain themselves,) were considered the wards of the company, to whom it regularly paid a yearly pension.

Finding in its charter this authority of the company to vest title to land in its employés, and that very many of the dwellings erected by the company were occupied by its employés or their widows and children, who claimed the property in fee the commissioners called on the governor, Prince Maksontoff, to define and certify to the interest of each individual thus occupying such dwelllings and lots, in order that we might distinguish between those who owned the property in fee and those who claimed a less interest, and in compliance with your instructions give certificates to the claimants accordingly.

The inventories, respectively marked C and D, (forming part of the protocol,) which are forwarded with this report, will show in part the action of the governor in the premises; for the rest he gave a certificate stating the interest of each occupant in the premises occupied, on the back of which the commissioners placed their approval, and it was left to be delivered to the occupant.

In order to be accurate, and to prevent disputes hereafter about the title to houses and lots, we made a map of New Archangel, (forwarded with this report,) on which every house and dwelling in the town is located and numbered, and, as between the claimant and the United States, the title to it defined and settled in the inventories. This was thought necessary in order to give, in accordance with your instructions, to each man of property, who desired to dispose of it, a certificate of title.

The town of New Archangel was built in the main by the Russian American Company, and, except the dwellings transferred by them to their employés, and the public buildings transferred to the United States, is owned by that company still; yet it has but a possessory interest in the land, as it only had permission to erect buildings upon it; for, although it had authority to vest the title of lands in its employés, it had no power to vest such title in itself. The commissioners left the matter as they found it, and the company in possession of its buildings.

The harbor is not a very secure one, as it is rather exposed, and the bottom is too rocky to allow the anchors to hold well. On that account the Russian American Company had placed in it buoys and chain cables, to which the ships lying at anchor might be fastened in aid of the anchorage. These cables, &c., were the private property of the company, but as the harbor was not at all safe without them, and as we had several ships passing the winter there, I expressed a wish to the Russian commissioner that they might remain as they were for the present, to which he consented. As commissioner I had no authority to purchase these articles, but I requested Captain Pestchouroff and Governor Maksontoff to name a price for which they might be bought. Ten thousand dollars was accordingly named, as will appear by the note of Captain Pestchouroff, which I forward herewith. I know very little of the value of buoys and chains, but think the price demanded is not unreasonable.

All the buildings in anywise used for public purposes were delivered to the United States commissioner, taken possession of, and turned over to General Davis, as were also the public archives of the Territory; and in a spirit of liberality the wharf and several valuable warehouses belonging to the Russian American Company were included in the transfer by the Russian commissioner. Both the wharf and the warehouses were very much needed by our people.

We could not visit Kodiak, or any other point in the new Territory as the season in which we might expect stormy weather was rapidly approaching.

For the further action of the commissioners in the execution of their commission your attention is respectfully called to the protocol, map, and inventories accompanying this report. With this report, and accompanying papers, I return to you the United States flag used on the occasion of the transfer of the Territory.

In your instructions, both written and verbal, you were somewhat particular to impress me with your desire that all the intercourse between the Russian and American commissioners should be liberal, frank, and courteous; and I am pleased to say that, from the meeting of Captain Pestchouroff and myself in your office till we parted, after our work was ended, all our communication and association with each other, personal and official, were of the friendliest character, and just such as I am sure you desired.

I found the governor, Prince Maksontoff, and Captain Koskul, both representing the Russian American Company, equally kind and courteous with Captain Pestchouroff.

I saw very little of the new Territory, and regret I could not see more. I cannot, therefore, say much about it which you do not already know. The speech of Mr. Sumner, in the United States Senate, on the ratification of the treaty ceding the Territory of Alaska, is very accurate in all its details, so far as I was able to judge. Indeed, I thought its accuracy very remarkable in the descriptions it contained of the climate, the people, resources, &c., of the new Territory, as he assumed to know nothing personally about it.

The people of Sitka seemed to be quiet, orderly, and law-abiding; of the Russians proper there were about 500 on the island. If kindly treated by our people, most of them will remain as citizens of the United States. Many of them had already made their election to remain, under the stipulations of the treaty by which the Territory was ceded to our government. Generally they were satisfied with the transfer of the Territory, as were also most of the Indians. The latter received from Americans, since the transfer, exorbitant prices for fish and game and whatever they had to sell, and were generally pleased with the change. A Kollosian chief, however, angrily remarked that, "True, we allowed the Russians to possess the island, but we did not intend to give it to any and every fellow that came along."

At New Archangel the climate is not cold, but it rains a great deal. Mr. Sumner was right when he said the climate was about the same as that of Washington city in temperature.

The valley of New Archangel is almost surrounded by high mountains, is very low and marshy, and does not afford a fair test of the adaptation of the Territory to agricultural purposes. But I noticed vegetables growing in the gardens there, such as cabbages, turnips, potatoes, beets, &c., and that the beds or hills upon which they grew were considerably elevated to avoid the moisture caused by the constant rains. The potatoes were small, but both they and the beets were of the finest flavor. I was told that the climate of Kodiak, and of the Aleutian islands generally, as well as of the mainland, was colder and dryer than that of Sitka, and that vegetation of various kinds could be grown there.

I saw fine hogs and sheep at Sitka that were raised on the island. I ate of both, and found them of the finest quality. I saw cows there, also, in good condition, which gave excellent milk.

The fisheries on the coast, as Mr. Sumner asserts, are, as I was informed by those who knew, very fine, and from which any quantity of fish may be taken—salmon, trout, cod, and other kinds.

The forests are immense, and the timber, pine, &c., of a fine quality.

We remained a week at Sitka. It required that time to complete the transfer in the manner before stated. We steamed out of the harbor just at night, into the open sea, on Saturday, the 26th November, for Cape Decision, 75 miles distant, where we would enter the straits and by the inland passage return by the same route we took in going to Sitka. But before we reached the cape we encountered a storm, the severest known on the coast by any one now there. It lasted about twenty hours, and we very narrowly escaped being lost, nothing but the strength of our ship and the efficiency of the crew, under Providence, saving us. In the midst of the gale the tiller or rudder ropes parted, all of our life-boats were swept away, and all of the fires under the boilers, save two, extinguished, with three feet of water in the wardroom and nearly as much on the main deck.

The storm being ended, we put back to Sitka to repair damages. About 35 sailors were injured in the storm. In a few days afterwards, with better luck, we reached Cape Decision, and came on through the straits to Victoria.

A steamer of ordinary size and power can go from Victoria to New Archangel by way of the straits, except about 10 or 15 miles; this by running up the straits to a point 10 or 15 miles beyond the town, thence entering the open sea and running back into the harbor. The passage is a safe one, and amidst scenery as grand and beautiful as there is in the world. The mountains, covered with forests, rise almost perpendicularly out of the water to a height of one to three thousand feet, and from the very tops of which gush out foaming waterfalls. In grandeur and sublimity there is nothing like it on this continent.

I have no doubt this passage—about 840 miles from Victoria to Sitka—will form a part of the great highway from the United States to the latter place, as it is both safe and delightfully pleasant. The waters are very deep, and anchorages not numerous, but enough. Along the shores are safe land-locked little bays and harbors, formed by notches in the mountain side, where vessels of any size can anchor in quiet and safety.

Hoping that the President and yourself will be satisfied with my efforts to discharge the duty assigned me, in accordance with instructions given for my guidance, and that the new Territory may prove as valuable an acquisition to our country as you would desire it,

I have the honor to be, your very obedient servant,

LOVELL H. ROUSSEAU,
*United States Commissioner, and Brig. Gen. U. S. A.*

Hon. WILLIAM H. SEWARD,
*Secretary of State.*

*Captain Pestchouroff to General Rousseau.*

NEW ARCHANGEL, SITKA,
*October* 14–26, 1867.

GENERAL: Referring to remark 2, at the foot of inventory A, attached to the protocol of transfer, I beg leave to state, for the information of the government of the United States, that the Russian American Company value the chains, anchors, buoys, &c., laid across the harbor at this port, in the sum of $10,000 in gold.

I am, general, your obedient, humble servant,

A. PESTCHOUROFF.

General LOVELL H. ROUSSEAU,
*United States Commissioner, &c., &c.*

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NEW ARCHANGEL, SITKA,
*October* 26 (14–26,) 1867.

We, the undersigned, United States and Russian commissioners, Captain Alexis Pestchouroff, of the imperial Russian navy, appointed by his Imperial Majesty the Emperor of Russia, to transfer and deliver, and Brigadier General Lovell H. Rousseau, of the United States army, appointed by Andrew Johnson, President of the United States, to receive, the territory ceded by his Imperial Majesty to the United States of America by treaty bearing date the thirtieth day (18–30) of March, A. D. eighteen hundred and sixty-seven, met at the town of New Archangel, in the territory above named, to fulfill our commission; and on the eighteenth (6–18) day of October, in the year eighteen hundred and sixty seven, at the governor's house in that town, Captain Pestchouroff, as such commissioner, for and in the name of his Imperial Majesty the Emperor of Russia, formally transferred and delivered to Lovell H. Rousseau, as commissioner as aforesaid, who received the same for and on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances, ceded to the United States of America by the treaty above referred to and as bounded and described in that treaty. The transfer was made under mutual salutes of artillery, the United States taking the lead, and in strict accordance with our instructions in that behalf. In pursuance of our respective instructions, Captain Pestchouroff, as such commissioner, also delivered to General Rousseau, as commissioner aforesaid, the government archives, papers, and documents relating to the territory and dominion above named, also the forts and public buildings, including the governor's house, dock-yards, block-houses, barracks, batteries, hospital, wharves, and schools, in the town of New Archangel, an inventory of which, marked A, is attached hereto as part hereof. We left, as instructed, in the hands of the Greco-Russian church the church buildings, appurtenances, and parsonages to the same belonging, as shown and described in inventory marked B, attached hereto as part hereof. We gave certificates of ownership to the individual owners of private houses and of lots in fee simple in the town of New Archangel, as directed, a list of whose names is presented in inventory marked C, attached to and made part hereof. In inventory marked D, attached to and made part hereof, are shown the houses and buildings owned by private individuals in New Archangel, the owners thereof having no title in fee to the land on which they are situated. A map of the town of New Archangel is also attached as part hereof. The letters and numbers on the margins of the several inventories aforesaid correspond with those of the said plan of the town.

As we were unable to visit Kodiak personally, we took no action touching affairs there. The public property there is certified to by the governor of this Territory, in inventory E, attached and made part hereof, and the military authorities can take possession of the same at any time.

LOVELL H. ROUSSEAU,
*United States Commissioner.*
ALEXIS PESTCHOUROFF,
*Russian Commissioner.*

A.

*Inventory of the public property in the city of New Archangel, (Sitka,) delivered to the United States of America, General Lovell H. Rousseau, United States commissioner, by his Imperial Majesty the Emperor of Russia, Captain Alexis Pestchouroff, Russian commissioner, on the 18th day of October, 1867, at New Archangel, (Sitka.) The letters and numbers on the margin correspond with those on the plan of the city attached to the protocol of the transfer, and show the situation of the buildings that they refer to.*

| Letters or numbers on the plan. | Description. |
|---|---|
| | FORTS. |
| A. | *Battery No.* 1.—Formed of a timber breast-wall and platform, situated at the water's edge at the foot of the stairs leading to the governor's house, and armed with five 12-pounder and five 18-pounder cast-iron guns. |
| B. | *Battery No.* 2.—Commonly called the Vraloskian battery, constructed of timber, situated by the Indian market place, and armed with six 12-pounder cast-iron carronades, and one 12-pounder cast-iron gun. |
| C. | *Block-house No.* 1.—Constructed of timber, situated by the church for the Indians, and armed with three 4-pounder cast-iron guns and one howitzer. |
| D. | *Block-house No.* 2.—Constructed of timber, situated by the Lutheran cemetery, and armed with three 6-pounder carronades of iron. |
| E. | *Block-house No.* 3.—Constructed of timber, situated by the artificial pond, and armed with three cast-iron carronades. |
| | BUILDINGS. |
| 3 | Subsistence storehouse of timber, in two compartments. |
| 6 | Three-storied timber barracks for the garrison troops. |
| 7 | Two-story timber building for office house. |
| 8 | Governor's house, of timber, two stories high, with wooden staircase and platforms on the outside, outbuildings appertaining thereto, cellars, &c. |
| 9 | Wash and bath-house, of timber, appertaining to the governor's house. |
| 11, 12, 13, 14, 15, 22, and 23 | Dock-yard, consisting of a ship slip, two workmen's sheds, and shed for boiling pitch, coal store, sawing shed, two-storied boat-house, smithy, and steam-kiln, all of timber. |
| 16 | School building, of timber, with its appurtenances. |
| 18. | Market for the Indians, with a timber house attached. |
| 20 | An unfinished new timber building, for barracks. |
| 61 | A two-storied timber house, for officers' lodgings. |
| 76 | An unfinished timber building, for a bath-house. |
| 103 | A double-storied timber building, for a hospital. |
| 116 & 117 | Two small wooden arbors in the public garden. |
| 118 | Powder magazine, of timber and earth. |
| 121 | Timber building for a school for the Indians, situated outside the palisade. |
| 122 | A small timber building on the Yaponsky island, used as a meteorological observatory. |
| 123 | A small timber house on the same island, for the observer. |
| | A stone and timber wharf, with wooden stairs, for boat landing. |
| | Public garden, with hot-beds, kitchen garden, &c. |
| | Two small timber buildings, with two baths, situated at the mineral hot springs, 14 miles from the city. |
| | Anchors and chains laid across the harbor for moving buoys. |

REMARKS.—The wharf described above, as also the chains, anchors, buoys, &c., in the harbor, were constructed and placed there by the Russian-American Company for their private use, but are transferred to the United States on condition—1st, that when not used by the government the same may be used by the said company over all others free of charge; 2d, that the United States will pay a reasonable price for the chains, anchors, buoys, &c., aforesaid; and if they do not choose to do so, then the said company may take them away as their property.

PRINCE DMITRY MAKSONTOFF,
*Governor of the Russian Colonies in America.*
ALEXIS PESTCHOUROFF, *Russian Commissioner.*
LOVELL H. ROUSSEAU, *United States Commissioner.*

B.

*Inventory of the property belonging to the Greco-Russian church in New Archangel, (Sitka,) with numbers and letters indicating the situation of buildings and lots of ground on the plan attached to the protocol of the transfer.*

| Letters or numbers on the plan. | Description. |
|---|---|
| | The Cathedral church of Saint Michael, built of timber, situated in the center of the city. |
| | The Church of Resurrection, of timber, commonly called the Kaloshian church, situated near the battery No. 2, at the palisade separating the city from the Indian village. |
| 102 | A double-storied timber building, for bishop's house, with outbuildings, appurtenances, and grounds. |
| 35 | A timber house, for church warden. |
| 98 | A timber house, for the deacon. |
| 104, 105, 114 | Three timber houses, with their appurtenances and outbuildings, for lodgings of priests. |
| F., G., H., I. | Four lots of ground, belonging to the parsonages. |
| a. | The place commemorative of the old church. |
| b. | A tomb. |
| | Three cemeteries, two outside the palisades and one by the church of the Resurrection. |

PRINCE DMITRY MAKSONTOFF,
*Governor of the Russian Colonies in America.*
ALEXIS PESTCHOUROFF, *Russian Commissioner.*
LOVELL H. ROUSSEAU, *United States Commissioner.*

C.

*List of the names of persons holding property in fee simple in the city of New Archangel, (Sitka,) who have been furnished with certificates of the same.*

| Names and surnames. | Numbers on the plan of houses. | Names and surnames. | Numbers on the plan of houses. |
|---|---|---|---|
| Adolf Lindfors | 26 | Simon Sokoloff | 108 |
| William Ivanoff | 28 | Jacob Lavouline | 109 |
| Elizabeth Bollman | 31 | John Ponomarkoff | 115 |
| John Kilkousky | 34 | Michael Buldakoff | X |
| Nathalia Kashevaroff | 45 | Gabriel Lyloff | 87*b* |
| Artemy Laventieff | 49 | Andrew Ziazeff | 87*a* |
| John Kaistky | 68 | The congregation of the Lutheran church | 33 |
| Nadeska Timofejeff | 82 | Bazil Pavloff | In Kodiak. |
| Kusma Terentriaff | 91 | John Peterson | 69*a* |
| John Makaroff | 106 | Mathew Ivanoff | IX |
| William Vickstrom | 107 | | |

PRINCE DMITRY MAKSONTOFF,
*Governor of the Russian Colonies in America.*
ALEXIS PESTCHOUROFF, *Russian Commissioner.*
LOVELL H. ROUSSEAU, *United States Commissioner.*

D.

*Inventory of private property in the city of New Archangel, (Sitka,) with the numbers and letters indicating the situation of dwelling-houses, establishments, and lots of ground as marked on the plan of the city attached to the protocol of transfer.*

| Description. | Letters or numbers on the plan. |
|---|---|
| Warehouse | 1 |
| Shop and storehouse | 2 |
| Tannery for furs | 4 |
| Dwelling house with out-building | 5 |
| Lime-kiln | 19 |
| Dwelling house | 24 |
| Bakery, joiners', and other shops | 25 |
| Dwelling house | 26 |
| Kitchen shed | 27 |
| Dwelling house with out-building | 28 |
| Dwelling house | 29 |
| Dwelling house | 31 |
| Dwelling house | 32 |
| Dwelling house with out-buildings | 34 |
| Dwelling house | 36 |
| Dwelling house | 37 |
| Dwelling house | 39 |
| Dwelling house | 40 |
| Dwelling house | 41 |
| Dwelling house | 42 |
| Dwelling house | 43 |
| Dwelling house | 45 |
| Dwelling house | 46 |
| Dwelling house | 47 |
| Dwelling house | 48 |
| Dwelling house | 49 |
| Dwelling house | 51 |
| Dwelling house | 52 |
| Dwelling house | 53 |
| Sea house | 54 |
| Dwelling house with out-building | 55 |
| Dwelling house | 56 |
| Dwelling house | 57 |
| Dwelling house | 58 |
| Dwelling house | 59 |
| Kitchen shed | 60 |
| Shed | 61 |
| Dwelling house | 62 |
| Laundry | 63 |
| Dwelling house | 64 |
| Dwelling house | 65 |
| Shed | 66 |
| Dwelling house | 67 |
| Dwelling house | 68 |
| Foundry | 69 |
| Saw-mill with a shed attached | 70 |
| Tannery | 71 |
| Water flour-mill, with an out-building, dam, &c | 72 |
| Two old tannery sheds | 73 |
| Dwelling house | 74 |
| Old bath building | 75 |
| Dwelling house | 76 |
| Dwelling house with two out-buildings | 77 |
| Dwelling house | 78 |
| Dwelling house | 79 |
| Dwelling house | 80 |
| Dwelling house | 81 |

D.—*Inventory of private property in the city of New Archangel, (Sitka,) &c.*—Continued.

| Description. | Letters or numbers on the plan. |
|---|---|
| Two dwelling houses adjoining each other | 87*a* |
| Two sheds for vegetables | 87*b*, 88*b* |
| Dwelling house | 89 |
| Dwelling house with two out-buildings | 91 |
| Dwelling house | 92 |
| Dwelling house | 93 |
| Dwelling house | 94 |
| Ropery | 95 |
| Aleutian dwelling house | 96 |
| Hay-loft | 97 |
| Dwelling house with out-buildings | 99 |
| Dwelling house | 100 |
| Stables | 101 |
| Dwelling house with out-buildings | 106 |
| Dwelling house with out-buildings | 107 |
| Dwelling house | 108 |
| Dwelling house with out-buildings | 109 |
| Dwelling house | 110 |
| Dwelling house with out-buildings | 115 |
| Fish store with three out-buildings | 119 |
| Coal shed, wharf, and— | 124 |
| Three old hulks aground, occupied as stores | 125, 126, 127 |
| Floating steam sawing shop, aground | 128 |
| Hulk and movable bridge | 129 |
| Dwelling house | I |
| Dwelling house and bowling alley | II & III |
| Dwelling house | IV |
| Store | V |
| Shed | VI |
| Shed | VII |
| Dwelling house | VIII |
| Dwelling house | IX |
| Dwelling house | X |
| Dwelling house | XI |
| Dwelling house | 44 |
| Lots of ground cultivated as vegetable gardens by the different citizens of the town | J |

PRINCE DMITRY MAKSONTOFF,
*Governor of the Russian Colonies in America.*
ALEXIS PESTCHOUROFF, *Russian Commissioner.*
LOVELL H. ROUSSEAU, *United States Commissioner.*

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E.

*Inventory of forts and public buildings on the island of Kodiak to be delivered to the United States government.*

FORTS.

*Flagstaff battery.*—Constructed of timber, armed with four guns.
*Battery No. 2.*—Constructed of timber, armed with six guns, and situated at the north-east entrance of the harbor.

BUILDINGS.

A timber house, for the governor of the place.
A timber building, for school.
Office house.
Hospital.
A house for the surgeon.
A store shed.

The remainder of the buildings at Kodiak are private property, with the exception of those belonging to the Greco-Russian church.

PRINCE DMITRY MAKSONTOFF,
*Governor of the Russian Colonies in America.*
ALEXIS PESTCHOUROFF, *Russian ommissioner.*
LOVELL H. ROUSSEAU, *United States Commissioner.*

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## *Mr. Stoeckl to Mr. Seward.*

[Translation.]

WASHINGTON, *February* 5–17, 1868.

Mr. SECRETARY OF STATE: I have the honor to annex hereto an extract of a report which has been addressed to me by Captain Pestchouroff, our commissioner at Sitka.

You will perceive from it, Mr. Secretary of State, that it refers to some buildings which are claimed by General Davis and the collector of customs, Dodge. The division of the public and private property has already been settled, and a protocol concerning it has been signed and drawn up by the two commissioners. I think that the way to settle the question of which Captain Pestchouroff speaks will be to adhere to the strict terms of that formal document.

You will perhaps deem it expedient to give General Davis your orders on the subject, and I shall not fail to furnish Captain Pestchouroff with similar instructions.

I beg of you, Mr. Secretary of State, to be pleased to bring this communication to the knowledge of the Secretary of the Treasury, who must have received a report from Mr. Dodge having relation to this affair.

Be pleased to receive, Mr. Secretary of State, the repeated assurances of my very high consideration.

STOECKL.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Extract of a report from Captain de Pestchouroff, dated New Archangel, Sitka, December 12–24, 1868.*

General Jefferson Davis, in command of the United States troops stationed in Alaska, has assigned, as government reservation, the most eligible portion of the town of New Archangel. This reservation includes several buildings, the property of the Russian-American Company, viz: two storehouses, one fur tannery, and two dwelling houses. If the federal government indorses the order of General Davis, the owners of the real estate in question will lose their rights of possession, and it is therefore desirable that the company's building, located within the limits of the new reservation, should be purchased by the federal government. Mr. Dodge, collector of customs, has expressed the opinion that one of the buildings near the wharf is perfectly adapted for an appraisement store, and he intends referring the matter to the Secretary of the Treasury. The price of this building is $12,000 in gold; the other four can be purchased for $10,000 in gold.

### *Mr. Stoeckl to Mr. Seward.*

[Translation.]

WASHINGTON, *February* 8–20, 1868.

Mr. SECRETARY OF STATE: To give sequence to the note which I had the honor to address to you on the 16–28th December last, I hasten to subjoin hereto copies of two letters which have just reached me, on the subject of the conflict which might have happened between the American whaler Java and a Russian vessel in the Sea of Okhotsk.

Please accept, Mr. Secretary of State, the assurance of my very high consideration.

STOECKL.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Translation of a letter from Vice-Admiral Krabbé, minister of marine to Prince Gortchakow, chancellor of the empire, dated St. Petersburg, January* 4–16, 1868.

In reply to the note your excellency did me the honor to address to me, I hasten to inform you that I do not find in the department of marine any trace of instructions given to our cruisers to take any restrictive measures touching the whale fishery in the Sea of Okhotsk.

As to the conflict which may have had place between an American whaler and a Russian vessel in the Sea of Okhotsk, the department, thus far, has no information.

I have the honor, &c., &c.

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*Translation of a letter from H. E. de Kerakoff, governor-general of Oriental Siberia, to his excellency Mr. de Westmann, assistant to the minister for foreign affairs, dated St. Petersburg, January* 12–24, 1868, *No.* 1501.

After receiving the letter of your excellency dated January 7–19, I addressed a telegram to the chief authorities at Irkourtsk, to send me what information they had on the supposed conflict of our sloop of war Aleoute with the American whaler Java. I was answered that no news on the subject had reached them from Nicholaeffsky.

In consequence, I hasten to write to the military governor of the maritime province of Oriental Siberia, requesting him to inform me of the facts connected with the incident before cited.

I have the honor, &c.

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### *Mr. Seward to Mr. Stoeckl.*

DEPARTMENT OF STATE,
*Washington, March* 3, 1868.

SIR: I have the honor to acknowledge the receipt of your communication of the 5–17th ultimo, in relation to the reservation by General Davis, commanding the United States military forces in Alaska, of a certain portion of the town of New Archangel for the use of this government, and suggesting on your part a purchase of the buildings thereon.

In reply I have the honor to state that, upon the information now in possession of this department, the property in question would appear to have vested in the United States under the treaty of March 30, 1867.

If, however, the fact be otherwise, I find, upon consultation with the Secretary of the Treasury, that there is not at present such occasion for the use of the buildings as to recommend the purchase of them by this government.

Accept, sir, a renewed assurance of my highest consideration.

WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

*Mr. Stoeckl to Mr. Seward.*

[Translation.]

WASHINGTON, *May* 29, *June* 10, 1868.

Mr. SECRETARY: I hasten to inclose to you, for the information of the federal government, the copy of a regulation, sanctioned by his Majesty the Emperor, which completes one of the articles of the Russian Code of Commerce.

Please accept, Mr. Secretary of State, the assurance of my very high consideration.

STOECKL.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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By a decree of the 5th of March of this year, published in the Law Bulletin, the senate directing, promulgates a decision of the council of the empire, sanctioned by his Majesty the Emperor, on the 5th of February last, which completes article 855 of the code of commerce, and supersedes article 20 of the regulation on Russian flags, sanctioned by his Majesty the Emperor, the 23d of June, 1865, and the observation appended to it, as well as article 1233 of the Penal Code, by the following dispositions:

1. By exception to the general rule laid down in article 855 of the Code of Commerce, (vol. XI of the Code of Lois,) it is allowed, till further orders, to keep on board Russian vessels not only foreign captains and mates, but foreign sailors, without limit in number.

2. In order to increase the means of forming sailors in Russia, the owners of ships whose crews are composed of more than three-fourths foreigners shall be compelled to pay into the treasury annually, for the benefit of seamen, an annual duty of 25 rubles for each man over that proportion. This duty shall be paid at the custom-house, and where there is none, to the port warden, when the crew-list is handed to him.

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*Mr. Seward to Mr. de Stoeckl.*

DEPARTMENT OF STATE,
*Washington, June* 24, 1868.

Will Mr. de Stoeckl have the goodness to recall the attention of the imperial government to the request which the United States government has made for explanations concerning the alleged proceedings or regulations affecting the freedom of the fisheries in the Sea of Okhotsk? The subject is not unlikely to produce present uneasiness, which would soon be inconvenient, and ultimately become a source of regret.

I avail myself of this occasion to offer to you the renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

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*Mr. Hunter to Mr. de Stoeckl.*

DEPARTMENT OF STATE,
*Washington, August* 3, 1868.

SIR: I have the honor to transmit herewith for your information, and that of the government which you represent, a copy of an instruction

which, on the 14th of July, was addressed by this department to the United States minister at Yeddo.*

Accept, sir, a renewed assurance of my very high consideration.

W. HUNTER,
*Acting Secretary.*

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

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*Mr. Stoeckl to Mr. Seward.*

[Translation.]

IMPERIAL LEGATION OF RUSSIA TO THE UNITED STATES,
*Washington, September, October*, 1868.

Mr. SECRETARY OF STATE: I have the honor to transmit to you, hereto annexed, the translation of a report which Captain Pestchouroff, the commissioner of the Russian government for the transfer to the federal authorities of our ancient possessions in North America, has addressed to me.

Mr. Pestchouroff informs me that this transfer has been accomplished without having given rise to the slightest difficulty.

I venture to request you, Mr. Secretary of State, to please to give me, on your part, if you think proper, the like assurance, that I may be able to transmit it to the imperial government. Such an exchange of notes may be considered as an official act, showing that the execution of the clause of our convention, having for purpose the transfer of the ceded territory, has been effected to the mutual satisfaction of the two parties.

Please to accept, Mr. Secretary of State, the assurance of my very high consideration.

STOECKL.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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*Captain Pestchouroff to Mr. de Stoeckl.*

[Translation.]

NEW YORK, *September* 28, 1868.

SIR: I have the honor to inform you that, in accordance with your orders, I left Sitka on the 22d of August, having terminated the labors of the commission intrusted to me. That part of my instructions directing me to make a division of the public and private property in our former possessions was accomplished on my arrival in Sitka, as shown by the protocol signed in duplicates by General Rousseau and myself.

The public property in Kodiak was delivered by me this summer to Colonel Smedberg, sent there by General Halleck to receive it; and the property at the posts of St. Nicholas and Constantine, as agreed with General Davis, was left in charge of the former agents of the Russian-American Company at those places, with directions to turn it over to the United States government, or to any persons authorized by General Davis to receive it.

Thus the clause of the treaty with regard to the division of the government and private property, and the delivery of the former to the United States, has been fully accomplished.

I am, &c., &c.,

PESTCHOUROFF.

His Excellency Mr. DE STOECKL.

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* For this inclosure, see correspondence with Japan.

*Mr. Seward to Mr. de Stoeckl.*

DEPARTMENT OF STATE,
*Washington, October* 8, 1868.

SIR: I have the honor to acknowledge the receipt of your note of September, (October,) accompanied by a translation of a report made to you by Captain Pestchouroff on the subject of the transfer to United States authorities of the public property in Russian America, pursuant to the convention between the two governments. Having referred to the Secretary of War a copy of your communication, I now inclose a copy of his reply, from which it appears that, although his department has not yet full official information on the subject, the reports in regard to it which had been received indicate that the transfer was completed to the general satisfaction of United States officers concerned.

I avail myself of this occasion, sir, to offer to you a renewed assurance of my very high consideration.

WILLIAM H. SEWARD.

Mr. EDWARD DE STOECKL, *&c., &c., &c.*

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*Mr. Schofield to Mr. Seward.*

WAR DEPARTMENT,
*Washington City, October* 7, 1868.

SIR: I have the honor to acknowledge your letter of the 5th instant, inclosing translation of a note from the Russian minister relative to the transfer of the public property in the late Russian possessions in North America to the United States, and to state that this department will be pleased to aid you in giving the assurance desired by the minister as to the satisfactory manner in which the transfer was effected; and for that purpose the communication has been referred to the commanding general of the military division of the Pacific for more definite information upon the subject than is now in possession of the department—it being proper to state that the reports heretofore received indicate that the transfer was completed to the general satisfaction of the United States officers concerned.

Very respectfully, your obedient servant,

J. M. SCHOFIELD,
*Secretary of War.*

The Honorable the SECRETARY OF STATE.

# THE NETHERLANDS.

*Mr. Ewing to Mr. Seward.*

[Extract.]

No. 23.] LEGATION OF THE UNITED STATES,
*The Hague, November* 30, 1867.

SIR: * * * *

I have the honor to inclose the speech delivered in person by the King of Holland at the last opening of the Dutch Chambers, and to announce the recent death of the highly esteemed minister of justice of the Netherlands, Mr. Boret.

The feeling aroused in Belgium by the barrage of the Scheldt has in great measure subsided, owing to the opinion having gained ground that no damage to navigation is likely to result. The coolness between the governments of Holland and Belgium, caused by the barrage, has yielded to this opinion, and to the desire to place their countries in position to present a united front against the absorption of either. In union they seek strength.

I have the honor to be, with great respect, your obedient servant,

HUGH EWING.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

SPEECH FROM THE THRONE.

GENTLEMEN: It is always with real pleasure that I open the legislative session. The fulfillment of this task is doubly agreeable to me to-day, as I have to make satisfactory communications as to the situation of the country.

The dissolution of the ties which united one of our provinces to Germany, effected last year, has since obtained its international sanction by the treaty of London of the 11th May last.

I fully trust that when experience shall have demonstrated the innocuousness of the works at present being executed in the eastern Scheldt, our relations with Belgium will receive more and more a character of reciprocal friendship.

I rejoice to be able to announce to you that we continue to entertain the best relations with all the other foreign powers.

It is most grateful to me to mention the laudable manner in which the army and navy have acquitted themselves of their duties; however, I see myself obliged to ask your assistance with a view to give a certain extension to our national guard. In the mean time care will be taken to train that body as much as the existing law permits.

Measures are being taken to combat, with the aid of Providence, the cholera, which has again appeared in some localities of our country.

The efforts made to remove the cattle disease have been crowned with success, and for some time past only sporadic cases have been observed.

During the past year public and private instruction have continued to be the object of my lively solicitude. You will be immediately called on to discuss a bill relative to the course of education practiced in the universities.

You will receive, also, another, to alleviate the charges imposed on the periodical press by the stamp act.

Commerce, navigation, and industry are in a favorable situation.

You will have to examine new provisions concerning the verification of weights and measures, and a bill on the present system of pawnbroking.

The harvest in general has been good; but the produce of the sea fisheries has not been so abundant.

The works undertaken on the state railways are being actively continued; the completion of some of the lines will soon be accomplished. Two new ones, executed by private enterprise, will soon be opened to public circulation. If the existing estimates should be realized, they will suffice during the current year for the public services and to continue the works on the state railways without having necessity to recur to extraordinary measures.

A bill concerning the financial responsibility of ministers, that regulating the accounts of the state finances, as well as certain measures to simplify the collection of succession dues, will be laid before you at a later period.

Your deliberations on the proposal of a new code of criminal precedure will facilitate the putting in vigor of the new judicial organization. With the same view I shall cause to be presented to you immediately a measure for the revision of the judicial districts. You will probably also have occasion to discuss, during the present session, a new code of civil procedure.

You will also soon receive a communication of an act on consular jurisdiction, as well as various bills as to a partial revision of the military criminal codes. The labors of drawing up a new penal code are being actively continued. On the same occasion you will have to occupy yourselves with the organization of the state police.

The numerous exigencies and the divergence of opinions which exist as to colonial affairs have not failed to exercise their influence on the situation of our possessions in the East Indies. My first care will therefore be devoted to the interests of the state in those countries, whilst avoiding everything that could compromise public tranquillity or excite the discontent of the indigenous populations. I will willingly lend my assistance to the development of agriculture and private industries, provided that other interests are not compromised thereby.

I have learned with pain that an earthquake has made many victims in a part of the island of Java.

The situation of the Dutch possessions in the West Indies continues to be in general satisfactory; however, the necessity of the importation of laborers to Surinam continues to be severely felt.

Other labors likewise await you. They will open to you a vast field for your zeal for the interests confided to you. May they, under the blessing of God, contribute to the well-being of the country.

I now declare the ordinary session of the States General to be opened.

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### *Mr. Ewing to Mr. Seward.*

[Extract.]

No. 25.] LEGATION OF THE UNITED STATES,
*The Hague, December* 29, 1867.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 7th instant, No. 21.

The session of the States General of Holland was closed on the 27th instant, by the ministers of the interior and finance, who announced that the King had determined to decline to accept the resignation of the cabinet, and to appeal to the country.

The fear is general that the coming year will witness the breaking out of a European war. Governments are ready, or in active preparation, for the threatened event, and the populations nervous and irritated. It will require moderation on the part of those who conduct foreign affairs to avert it.

One of the best guarantees for the maintenance of peace lies in the disinclination evinced to strike the first blow, and be held responsible for the incalculable results.

Though the habit of peace is the more difficult to throw off by reason of its long continuance, yet the fact that it has lasted longer than usual is almost of itself sufficient notice that a period will soon be put to it. That the continent will be convulsed during this, or early in the

approaching decade, may be asserted with confidence. It may occur in 1868, from careless handling of existing differences, but no cause is now ripe, or apparently nearing maturity, that will probably produce the outbreak.

Holland is permitting the fortress of Maestricht to fall to decay. This is evidence that she intends to rely on her dikes, and will not resist the violation of Limburg, which would involve her at the outset in a struggle from which she fervently hopes to be exempt. * * *

I have the honor to be, with great respect, your obedient servant,

HUGH EWING.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Ewing to Mr. Seward.*

[Extract.]

No. 37.] LEGATION OF THE UNITED STATES,
*The Hague, July* 15, 1868.

SIR: I have the honor to inform you that I have presented, in the name of the department and the government of the United States, to the government of the Netherlands, and to Mr. E. Cremers, minister of foreign affairs of the Netherlands at the time of the assassination of the late President Lincoln, the copies of the volumes containing expressions of condolence and sympathy inspired by that deplorable event.

I have also handed to Mr. Roest Van Limburg, minister of foreign affairs *ad interim*, two volumes transmitted by the department, one designed for himself and one for the government.

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I have the honor to be, with great respect, your obedient servant,

HUGH EWING.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Ewing to Mr. Seward.*

[Extract.]

No. 38.] LEGATION OF THE UNITED STATES,
*The Hague, September* 12, 1868.

SIR: * * * * * *

I am in receipt of a communication from Mr. Roest Van Limburg, late minister of foreign affairs *ad interim*, in which he informs me that his Majesty has appointed him minister of foreign affairs, to date from September 1st.

I am also in receipt from his excellency of two other communications, in one of which, in the name of his government, he acknowledges the receipt of a copy of the "Tributes of the Nations to Abraham Lincoln," presented by the department, and eulogizes the devotion of the late President to the cause of liberty and union, expressing especial pleasure in its reception inasmuch as he had been the interpreter to our government of the sentiments of affliction and sympathy which animated the govern-

ment and the people of his country; and begs me in conclusion to convey to my government the thanks of the government of his King for the highly prized gift.

In the other he acknowledges the receipt of a copy of the same work presented to himself, and begs to send through this legation to the department his sincere thanks.

* * * * * * *

I have the honor to be, with great respect, your obedient servant,

HUGH EWING.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

# CHINA.

## *Mr. Williams to Mr. Seward.*

No. 1.] LEGATION OF THE UNITED STATES,
*Peking, November* 28, 1867.

SIR: I have the honor to inform you that by the resignation of the Hon. A. Burlingame on the 21st instant, (inclosure A,) I am again placed in charge of this legation, on which day I took possession of the archives, seals, &c., belonging thereto. Mr. Burlingame announced his resignation to the Chinese government on the same day, and I inclose a translation of Prince Kung's reply, (inclosure B.)

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Mr. Burlingame to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Peking, November* 21, 1867.

SIR: In the interests of my country and civilization, I do hereby resign my commission as envoy extraordinary and minister plenipotentiary from the United States to China.

I have the honor to be, sir, your obedient servant,

ANSON BURLINGAME.

WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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B.

*Prince Kung to Mr. Williams.*

[Translation.]

NOVEMBER 28, 1867, *(Tungchi, 6th year, 11th moon, 2d day.)*

Prince Kung, chief secretary of state for foreign affairs, herewith sends a reply:

I have had the honor to receive the dispatch of his Excellency Anson Burlingame, in which he states: "I have resigned my office of minister plenipotentiary from the United States to China on this the 21st day of November, 1867, and have transferred the affairs of the legation to S. Wells Williams, who will attend to the management of all things connected therewith."

In acknowledging this dispatch, I need only say, in reply, that I am well aware that your excellency has resided several years in Peking, and that when you had charge of the legation before, all matters which arose were arranged between us in a friendly and satisfactory manner. Now that you have again taken charge of the legation, it is a matter of great satisfaction to myself and all the members of the foreign office that in discussing and arranging such affairs as may hereafter arise we shall have the advantage of being aided by one so familiar with them as you are.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

*Mr. Burlingame to Mr. Seward.*

SHANGHAI, *December* 14, 1867.

SIR: You will have learned from my telegram from Peking of my appointment by the Chinese government as "envoy" to the treaty powers, and of my acceptance of the same.

The facts in relation to the appointment are as follows: I was on the point of proceeding to the treaty ports of China to ascertain what changes our citizens desired to have made in the treaties, provided a revision should be determined upon, after which it was my intention to resign and go home. The knowledge of this intention coming to the Chinese, Prince Kung gave a farewell dinner, at which great regret was expressed at my resolution to leave China, and urgent requests made that I would, like Sir Frederick Bruce, state China's difficulties, and inform the treaty powers of their sincere desire to be friendly and progressive. This I cheerfully promised to do. During the conversation Wensiang, a leading man of the empire, said, "Why will you not represent us officially?" I repulsed the suggestion playfully, and the conversation passed to other topics.

Subsequently I was informed that the Chinese were most serious, and a request was made through Mr. Brown, Chinese secretary of the British legation, that I should delay my departure for a few days, until a proposition could be submitted to me. I had no further conversation with them until the proposition was made in form, requesting me to act for them as ambassador to all the treaty powers. I had in the interim thought anxiously upon the subject, and, after consultation with my friends, determined, in the interests of our country and civilization, to accept. The moment the position was formally tendered I informed my colleagues of all the facts, and am happy to say that they approved of the action of the Chinese, and did all they could to forward the interests of the mission. J. McLeavy Brown, esq., Chinese secretary of the British legation, was persuaded, in the common interest, to act as first secretary to the mission, and Mr. Deschamps, a French gentleman who had accompanied Ping on a visit to Europe, was selected as second secretary. Two Chinese gentlemen of the highest rank were selected from the foreign office to conduct the Chinese correspondence, and as "learners." My suite will number about thirty persons. I shall leave for the United States by the February steamer for California.

I limit myself in this note to the above brief history of the mission, reserving my reasons for accepting it to a personal interview at Washington.

I may be permitted to add that when the oldest nation in the world, containing one-third of the human race, seeks, for the first time, to come into relations with the west, and requests the youngest nation, through its representative, to act as the medium of such change, the mission is one not to be solicited or rejected.

Dr. S. Wells Williams, for the sixth time, has been left in charge of the United States legation in China, and is in every respect competent to conduct its affairs.

Permit me to request the government most earnestly not to name my successor until I can give it information which may be useful in making a selection.

I have the honor to be, sir, your obedient servant,

ANSON BURLINGAME.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Williams to Mr. Seward.*

No. 2.] LEGATION OF THE UNITED STATES,
*Peking, December* 23, 1867.

SIR: I have the honor to inclose the translation of a circular dispatch, addressed to each of the foreign ministers in Peking by Prince Kung, informing them of the appointment of Mr. Burlingame as the envoy on behalf of the Chinese government to all the treaty powers, with a copy of my reply, (inclosures A, B.)

The arrangements connected with this appointment were all made in the ten days before Mr. Burlingame left Peking on the 25th ultimo, and after he had made and received his farewell visits with Prince Kung as United States minister, preparatory to going south for the winter; but it is probable that the prince and other high functionaries had long debated the propriety of the step, and Mr. Burlingame's departure induced them to bring the matter to a point by selecting him as their representative. It marks, in a sensible manner, the progress made by this government in understanding and carrying out its reciprocal duties to the nations with whom it has treaty obligations. It is likewise a proof of high regard to him personally, that after an official intercourse of nearly six years the leading officers of this government should confide in him the advocacy of their highest interests at foreign courts. The ample powers given to him prove the importance that they attach to the embassy.

Associated with him are two Chinese commissioners named Chi-Kang and Sun Kia-kuh, who have been for several years employed in the foreign office as under secretaries, and are more conversant with foreign affairs than persons selected from higher posts would be. Two foreign secretaries have been attached to the mission, viz: J. McL. Brown, formerly assistant Chinese secretary to the British legation in Peking, and possessing an intimate acquaintance with the *personnel* and policy of the foreign office, who holds the place of first secretary; and Mr. Deschamps, a Fenchman, now in the employ of the Chinese customs, who has that of second secretary. The reasons for appointing two co-ordinate Chinese commissioners are given in the accompanying documents, (inclosures C, D, E,) and appear to me satisfactory. Six students are also to be attached to their suite, who expect to remain abroad to learn the English, French, and Russian languages.

The propriety and benefit of such a diplomatic mission has been repeatedly urged upon the Chinese government since the ratification of the treaties of Tientsin in 1859; and Prince Kung and his coadjutors have frequently discussed its importance and inquired about its details, since the residence of foreign ministers at the capital. They usually excused themselves as not ready to do as other nations did in this respect, while acknowledging its expediency. The mission of Ping to Europe last year was indicative of their willingness to follow these suggestions, and its results in making the way more clear are probably best seen in the present embassy. Some have not entirely approved of placing a foreigner at the head of it, but it seems to me to illustrate the practical character of this people to send as its representative one who would not be liable to the mistakes which would almost certainly be committed by the fittest and best educated native living. The prince and his associates begin to feel that, in order to maintain their position, they must, as he intimates in his dispatch, send envoys to personally state their case at foreign courts, explain their difficulties, and urge the reasons for their own policy;

and they are convinced that none of their own body are qualified for this office. Their selection of Mr. Burlingame indicates their persuasion, therefore, that he will do for them better than they can yet do for themselves. The proposed revision of the treaties next year is likely to bring up for consideration many important subjects for discussion, and this has no doubt had its weight in deciding them to send him before those points are formally presented.

In order the better to appreciate the progress which this mission indicates on the part of this government, the terms of their envoy's commission should be compared with the two missives sent from the Emperor to the President in 1858 and 1863, as replies to the letters of credence presented by Mr. Reed and Mr. Burlingame. The first was dated June 7, 1858, while negotiations were going on at Tientsin:

I, the august Emperor, wish health to the President of the United States.

Having received with profound respect the commands of Heaven to sway with tender care the entire circuit of all lands, we regard the people everywhere, within and without the wide seas, with the same humane benevolence. * * * The minister of the United States has now handed up the letter under reply, on opening which the expressions of respectful request still further manifest the same friendly feeling and cordial sentiments. In it you desire that the minister of the United States may reside near our court, but there are many things connected with such an arrangement which cannot be effected without difficulty. Hitherto the foreign envoys who have repaired to Peking have all come from those kingdoms which bring tribute, but the United Seates is numbered among friendly (*i. e.*, not tributary) nations; and if, on arrival at court of her envoy, there should unluckily be any defect or untoward thing happen (about ceremonies) it might, we apprehend, seriously injure the present peaceful relations between our countries. Moreover, the middle kingdom has no ministers of her own residing in other kingdoms, and an arrangement of this kind should be mutual.

The minister of the United States is now at Tientsin, where he is negotiating with our high officers, and their intercourse has been mutually agreeable. As soon as their deliberations are concluded, he should return to Canton to attend to the commercial duties of his office as usual. This will tend to secure and perpetuate the present friendly feelings between our countries; and we think you, the President himself, will be highly pleased with such an arrangement.

The second was dated January 23, 1863, about two years after the foreign ministers had been settled in Peking:

His Majesty the Emperor of the Ta-tsing dynasty salutes his Majesty the President of the United States.

On the 25th day of the seventh moon the envoy, Anson Burlingame, having arrived in Peking, presented your letter, which, when we had read it, we found to be written in a spirit of cordial friendliness, [breathing] nothing but a desire for relations of amity that should ever increase in strength. Our heart was much rejoiced thereat, and the foreign office has been instructed to show all suitable attention to the envoy, A. Burlingame.

In virtue of the commission we have, with awe, received from Heaven to rule, all the world, native and foreigner, must be to us as one family, without distinction; and in our relations with man we must be thoroughly sincere in all things. May our friendly relations with the President henceforth increase in strength, and may both of us alike enjoy the blessings of peace. The attainment of such objects, we cannot doubt, would be most gratifying.

The difference in the spirit of these two papers indicates a better appreciation of its position on the part of the Peking government, which is even still more observable in the tenor of the reasons given for the appointment of their new envoy. The government of the United States will cordially approve of this step; and the Chinese evince their confidence in our peaceful intentions by selecting the representative of one of the youngest, thus to introduce the oldest of nations diplomatically to the others, as well as a desire to engage our co-operation in promoting their best interests. They still have much to learn respecting the duties which treaty stipulations demand of them, and respecting the privileges claimed by Christian nations; but their imperfect acquaintance with these

points should, I think, serve as an argument for bearing with them, and giving them time to prepare for the inevitable changes rapidly coming on them, rather than forcing them immediately to introduce improvements, agencies, and schemes which they cannot manage by themselves, but imperfectly see the bearing of, and are not yet willing to commit entirely to foreign hands. In all the provinces of the empire Europeans are still unknown by sight to the mass of natives, who have a dreadful idea of their character and designs; and this ignorance is a great bar to the introduction of steamers, railroads, telegraphs, and machinery, which the authorities must bear in mind when considering their introduction.

The preservation of the autonomy of the Chinese empire will be hard enough amidst all the transforming and conflicting agencies of a mercantile, missionary, and political character now simultaneously pressing on it. But I have great hopes that these various agencies will be best understood by the people at large as they see their beneficial effects, for I can myself see many things the better among those portions brought into contact with foreigners during the years since the treaty of Nanking was signed, in 1842. I do not, however, mean to say that China should be told to wait, for instance, till she is ready for a railroad before a railroad is attempted, for the railroad itself will furnish its own best argument and proof; but that certain influential native classes, mercantile and political, should be so enlightened on these subjects that they are desirous to introduce them. Until this is the case in some measure, foreign nations will fail to compel their acceptance except by force; and the very urgency to have them adopted will rather be taken to cover some other design, and the difficulties be increased.

In view of the present aspect of their position, the leading statesmen of China have voluntarily arranged this mission to represent them abroad, and I hope they will have no cause to regret it.

The results can hardly fail to have a lasting influence upon their future policy and standing among the nations of the earth.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Prince Kung to Mr. Williams.*

[Translation.]

NOVEMBER 22, 1867, (*Tungchi, 6th year, 10th moon, 27th day.*)

Prince Kung, chief secretary of state for foreign affairs, herewith sends a communication:

Since the time when the treaties with foreign countries and China were ratified, the friendly relations between the two parties have daily strengthened. Every matter that has come up for discussion between the representatives of those nations now living at the capital and myself has been deliberated upon with so much sincerity and candor that they have in no case failed to be arranged to our mutual advantage. But all those countries are separated from this by wide oceans, and no envoy has hitherto been sent to those lands, and thus there has been no medium through whom the Chinese government could personally make known its views to their governments, or explain its policy. But now, seeing that his excellency Anson Burlingame, lately the minister residing here from your honorable country, has such thorough acquaintance with the internal and external relations of this country, and I myself have such entire confidence and acquaintance with him, it has seemed to be feasible for this government now to adopt the customs of those countries who have sent resident ministers to this, and it would, moreover, be exceedingly agreeable to me, to commission him as the envoy of his

Imperial Majesty's government to all the treaty powers, to attend to and manage whatever affairs may arise between them.

I have already stated this matter in a memorial to the throne, and yesterday I was honored by receiving the following rescript:

"The Envoy Anson Burlingame manages affairs in a friendly and peaceful manner, and is fully acquainted with the general relations between this and other countries; let him, therefore, now be sent to all the treaty powers as the high minister, empowered to attend to every question arising between China and those countries. This from the Emperor."

A copy of this rescript has been made known to Mr. Burlingame, and this copy has also now been made to communicate to your excellency, for your information and action thereon.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires.*

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B.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, November 28*, 1867.

SIR: I have the honor to acknowledge the receipt of your Imperial Highness's dispatch of the 22d instant, containing a copy of his Majesty's rescript, appointing the Hon. Anson Burlingame to be minister plenipotentiary on the part of China to represent her at all the treaty powers, and conferring on him authority to manage every affair that may arise between them; and adding, that this appointment has been made because of his thorough acquaintance with the whole policy of China, and his peaceful, amicable management of his official relations and duties.

I have read your Highness's dispatch with the greatest satisfaction, noting, in the first place, the commendatory terms in which you speak of Mr. Burlingame's conduct during the time that he was the representative from the United States, and then that his Imperial Majesty has seen proper to appoint him as his own envoy to the treaty powers, with full authority to manage whatever business may arise between China and those governments. This has been done in order that he may promote the best interests of China, and in every way bring about a good understanding in all those countries; and I shall have great satisfaction in making it known to the President.

Since the ratification of the foreign treaties, his Majesty's government has not before appointed an envoy to reside in the treaty states; but having now of its own free will entered upon this step, it will be evident to all those nations that China is likewise fully aware that she, too, forms one of the universal family of mankind.

I have only to express the earnest hope that the future relations between her and other countries may gradually become more and more intimate and friendly, and that nothing may arise to impede or injure them.

I have the honor to be, sir, your Imperial Highness's obedient servant,
S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG, *&c., &c.,*

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C.

*Prince Kung to Mr. Williams.*

[Translation.]

NOVEMBER 27, 1867, (*Tungchi, 6th year, 11th moon, 2d day.*)

Prince Kung, chief secretary of state for foreign affairs, herewith sends a communication:

Having memorialized the throne, requesting that his Imperial Majesty would appoint officers with powers to go to all the western nations to attend to such matters as may arise between them and China, I was honored by receiving the following imperial rescript on the 26th instant:

"Let Chikang and Sun Kia-kuh be promoted to wear the button of the second grade of rank, and let a peacock's plume be also conferred on the latter; let these two officers then be sent to all the treaty powers, qualified to attend to whatever matters may arise between China and those countries; and let them pay the greatest diligence to the duties of their office. This from the Emperor."

I have accordingly respectfully made a copy of the above decree, and have now the honor to transmit it for your excellency's information.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

D.

*Prince Kung to Mr. Williams.*

[Translation.]

NOVEMBER 27, 1867, *(Tungchi, 6th year, 11th moon, 2d day.)*

Prince Kung, chief secretary of state for foreign affairs, herewith sends a communication:

Having memoralized the throne in a supplementary paper, requesting his Imperial Majesty to appoint J. McL. Brown to be first secretary to the minister plenipotentiary sent by China to foreign powers, and M. Deschamps to be second secretary, I was yesterday honored by receiving the following rescript:

"Let it be as requested. Respect this."

I have accordingly respectfully copied the above decree, and have the honor to send a copy for your excellency's information.

His Excellency S. WELLS WILLIAMS,
*United States Chargé Ad'ffaires ad interim.*

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E.

*Prince Kung to Mr. Williams.*

[Translation.]

DECEMBER 7, 1867, *(Tungchi, 6th year, 11th moon, 12th day.)*

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

His Imperial Majesty having seen fit to appoint Anson Burlingame, formerly minister from the United States with [the Manchu] Chi-Kang and [the Chinese] Sun Kia-kuh, two of the members of the Foreign Office, to be his envoys to proceed to all the treaty powers with authority to manage whatever affairs may arise between those countries and this, the imperial decrees conferring this authority on them were recently copied and sent to you.

But I am somewhat apprehensive that the foreign ministers in this capital, learning that his Majesty has commissioned three persons at once thus to represent him, will conclude that neither of them is to take the lead in conducting affairs with those nations, and I have therefore deemed it proper to explain the reasons of this cause in order to remove all doubt upon this point.

It is the usage among all the great western powers, in the interests of peace and good will, to appoint envoys to go to each other's country to attend to any affairs that may arise; and it would have been proper, during the many years that peace has existed between your honorable country and this, for his Imperial Majesty to have, at a much earlier period, commissioned a high officer to go there for the purpose of representing him and attending to any affairs arising between us. But owing to our imperfect knowledge of the languages and usages of foreign nations, this step has been delayed from time to time. Now, however, as Mr. Burlingame, a man of honor and peace, and intimately conversant with our intercourse and relations with other countries—one, too, with whom the officers of this government have long had acquaintance and confidence—is willing to act on behalf of China in attending to her interests, a memorial was presented to his Majesty requesting that he might be appointed imperial commissioner to all the treaty powers, and that Messrs Brown and Deschamps might be also appointed, to be first and second secretaries of the legation, to aid him in conducting its duties and accomplishing its purposes.

But if no high officers are sent on the mission from China also, there will hereafter be no one sufficiently acquainted with the necessary details to be qualified to receive the post of envoy; and this consideration induced the Foreign Office again to request his Majesty to appoint both Chi and Sun as his imperial commissioners, to go at the same time. This arrangement would manifest the good feeling existing, and be moreover a means of giving them practice and experience in their duties. If they could, in this way, add to the efficiency and dignity of Mr. Burlingame and his two secretaries, then the completeness of the mission for its duties would be all that could be desired. When this government at a future day desires to send her own envoys, she will then have precedents to follow, and it will be easier to prepare them for their duties.

Everything, however, that relates to the duties of imperial commissioner in the United States will devolve alone on Mr. Burlingame, and his decision will be final; but the

correspondence with the Foreign Office at Peking will properly devolve on the two Chinese commissioners, who will at all times consult with Mr. Burlingame in attending to their duties. In this way the requirements of the entire legation will be provided for, without difficulty to any part of it. As one of its members understands the languages and peculiarities of all the countries he will visit, so do the other two as fully comprehend the language and affairs of China.

This arrangement is, however, rather a temporary one, applicable at the initiation of the mission, and is not designed to serve for a constant rule in future. I have, therefore, to request that you will inform the Secretary of State of these particulars, so that when these imperial commissioners reach the United States to transact the business of their mission, he will be fully aware of their position and relative duties.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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*Mr. Williams to Mr. Seward.*

No. 3.] LEGATION OF THE UNITED STATES,
*Peking, January* 11, 1868.

SIR: The inclosed dispatch from his Imperial Highness Prince Kung, respecting a modification made in the duty on tea-dust, (inclosures A, B,) which I have now the honer to send you, indicates a desire to remove some of the disabilities on trade in this country. Tea-dust is almost wholly consumed by the poorer natives of China, who often mix it with the dried leaves of other plants, and it is carried from the tea districts for their use in other provinces. The foreign trade in it is trifling, but this reduction in the duty will probably develop a larger internal trade in the article.

I have the honor to be, sir, your obedient servant,
S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Prince Kung to Mr. Williams.*

[Translation.]

DECEMBER 29, 1867, (*Tungchi, 6th year, 12th moon, 4th day.*)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

In the month of August, last year, Mr. Fitzroy, the acting inspector general of customs, made a representation to the Foreign Office concerning the article of tea-dust, showing that it is so much inferior to the genuine article that when the same duty is levied on them both an exorbitant charge is made on the dust; he therefore requested that a modification might be made in respect to the rate of duty to be charged on the two qualities.

It so happened that in June last the firm of Messrs. Dent & Co. exported 591 peculs of tea from Hankow under the false designation of tea-dust, on which they paid only half the regular duty. When it reached Tientsin the customs ascertained that the goods did not agree with the description, and therefore they were compelled to disallow the reduction, lest there should great confusion, and disorders arise. Instructions were therefore sent to the superintendent of commerce for the northern ports to levy the full duty according to the tariff, which was done.

In January last, Mr. Hart, the inspector general, reported that as Messrs. Dent & Co. had misrepresented this lot of produce to be tea-dust, as had been proved by the commissioner of customs at Tientsin, they should be required to pay the full duty on it; but the article of tea-dust being in reality inferior in every respect to good tea, if the same duty continued to be levied on it as on fine tea, it would be impossible to avoid some inequality and unfairness. The best way, therefore, would be to diminish the duty on it in proportion to its value.

The Foreign Office having ascertained that Messrs. Dent & Co. had been required to pay up their deficiency of duty, considered that it was needless to do anything more about this particular case.

In regard to the question whether it was desirable to reduce the duty on tea-dust, however, it was concluded, first, to send directions to the two superintendents of commerce to consult upon the question and await the result of their inquiries. An answer was received from the northern superintendent of commerce, Tsunghau, last spring, stating as his opinion that one-half the present duty levied on tea was sufficient for tea-dust; but as he had not yet received a reply from his colleague, it was necessary still to delay the decision.

At last, on the 27th ultimo, the dispatch of the southern superintendent of commerce was received from Shanghai, inclosing the following report from the intendant of circuit Hankow:

"The article of tea-dust comes almost entirely from the great mart of Siangtan, in the province of Honan, and consists of the refuse leaves of black tea left after sifting and sorting; there are coarse and hard sticks in it, [meaning the stems of the leaves,] but the most of it is an ashy-like dust, differing altogether from good leaf-tea, and much inferior."

Whether, therefore, this article should pay one half the duty levied on good tea, viz, one tael two mace and five candareens [*i. e.*, $1 74] for every pecul, [of 133⅓ pounds avoirdupois,] or continue to be charged the old rate of two taels five mace, [*i. e.*, $3 48,] is a point that can be decided after a full examination of the facts now produced.

From what this office can learn on the matter, it appears that this article of tea-dust is a product of Siangtan in Honan; both the superintendents of commerce clearly represent it to be much inferior in size of leaf to good tea, and assume that it is not altogether equitable to demand the full duty of two taels five mace per pecul, as it interferes with the interests of the merchants. In order therefore to accord with the request now made, it has been decided to equalize the duty on this article. Hereafter the tariff on the article of tea-dust will be: one tael two mace five candareens [1t. 2m. 5c., or $1 74] for every hundred catties, [or 133⅓ pounds avoirdupois,] when the price does not exceed 15 taels per pecul; for every pecul that costs above 15 taels, the old duty of two taels five mace [2 t. 5 m., or $3 48] per pecul will be levied. In this way a distinct line can be drawn between them, and the same will be entered in the tariff for constant observance in future.

At the same time that this modification of the duty on tea is made known to your excellency, I have also notified the northern and southern superintendents of commerce to inform all the collectors of customs at the several ports, and directed the inspector-general of customs too, to observe the same in collecting the duty on this commodity. It is necessary, however, to guard against all attempts to simulate the two kinds of tea included in this arrangement; and as article X of the commercial regulations permits the Chinese government to adopt what means appear to it best suited to protect its revenue from suffering loss, orders have also been transmitted to the collectors and foreign commissioners at the various ports to co-operate in the strict enforcement of the rules respecting this article of trade. Every merchant having tea-dust to export must bring it to the government jetty for examination, and when the duty on it is paid he can place on board ship. When it is imported, he must in like manner, before landing it, bring it to the government jetty to be examined, and pay the duty. If a foreign merchant falsely reports a lot of real tea under the designation of tea-dust—whether it be for export or import, no matter where it is actually lying—as soon as it is detected the whole quantity shall be confiscated by the customs to the Chinese government. By this rule no one can fairly complain of any injustice, and it will moreover put a stop to all deception and evasion of the law.

I have in the present communication thus informed your excellency of the reasons for reducing the duty on tea-dust, and the regulation adopted for strictly carrying out its observance, and have now to request that you will make the same known to the merchants of the United States at the several ports.

His Excellency S. WELLS WILLIAMS,
*United States Charge d'Affaires ad interim.*

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B.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, January* 2, 1868.

SIR: I have the honor to acknowledge the receipt of your Imperial Highness's dispatch of the 29th ultimo, in which you inform me respecting a modification which has been made in the article of tea, whereby the tea-dust is separated from the other, and is hence-

forth to pay a duty of one tael two mace five candareens per pecul [*i. e.*, $1 74 per 133⅓ pounds avordupois] on all such as does not exceed 15 taels per pecul in value; but to pay the same duty as tea whenever its value exceeds 15 taels per pecul; and that if a foreign merchant falsely reports tea under the designation of tea-dust, he renders the whole quantity liable to confiscation.

I have carefully read your Highness's observations on the principles which led you to modify the duty by discriminating the article of tea-dust at a lower rate than tea, in order to benefit the foreign merchant; and that, to restrain the misuse of the reduction, all tea which is palmed off by him as tea-dust is thereby rendered liable to confiscation. This arrangement appears to be equitable, and indicates a desire to deal with this commodity so as to remove all obstacles to its greatest use.

I have accordingly notified the various consuls of the United States at the ports of this modification, for the information of the American merchants.

I have the honor to be, sir, your Imperial Highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG, *&c.*, *&c.*, *&c.*

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### *Mr. Williams to Mr. Seward.*

No. 5.] LEGATION OF THE UNITED STATES,
*Peking, January* 25, 1868.

SIR: Referring to my despatch No. 2, of the 23d ultimo, relating to the diplomatic mission sent by the Emperor of China to the treaty powers. I have now the honor to inform you that the two co-ordinate Chinese imperial envoys and their suite left Peking on the 4th instant, on their way to Shanghai, where they propose to join Mr. Burlingame in time to leave for California on the 15th proximo. Mr. Brown, first secretary of legation, left a few days after them, taking with him the letters of credence addressed by his Imperial Majesty to all the treaty powers, 11 in number. These documents are written in the Chinese and Manchu languages, on yellow paper, and, as I saw, are quite similar in form and size to the two replies from the Emperor to Presidents Buchanan and Lincoln.

The preparation and dispatch of these letters of credence marks an advance on the part of this government almost as great as that of sending the mission itself, although apparently a mere consequence of that act. In order to explain this, it is needful to observe that the Board of Foreign Office, notwithstanding its great influence and the high rank of its members, has hitherto no legal existence of itself, but at present consists of the presidents of four of the six boards, viz, civil office, revenue, punishments, and works, and two other high officers, who have been detailed to join in its deliberations under the chairmanship of Prince Kung. The members act in it conjointly under the style of the *Tsungli koh kwoh s z*, or general managing office of foreign countries; but individually they are responsible also for the conduct of their own departments to the general council of the government. When the desirableness of appointing Mr. Burlingame and his associates as envoys to foreign countries was proposed, the matter was agreed to by the Empress Regents, and others, as a proposal of the foreign office chiefly, for the success and results of which it was responsible; but when the question of granting them a letter written directly from the Emperor to other crowned heads, indorsing the mission and requesting them to accept it, the whole traditionary policy of the empire was interfered with; the supremacy of the Emperor as the son of Heaven, appointed from on high to rule over mankind, was proposed to be practically ignored by his own officers. The propriety of granting the letter was stoutly opposed by many of the members of government, and I am inclined to think that

the mission would have left the shores of China without it if it had not been for the precedent set by the Chinese government itself, and drawn out of it by the American ministers. In explanation of this remark it may be stated that it has been the usage among most of the foreign ministers accredited to this government not to deliver their letters of credence to the Emperor, because they were not permitted to do so in person; but the American ministers have chosen to hand them to the highest official they could meet, accompanied by an open translation. Replies to two of these letters having been issued. It was argued by Mr. Brown and Mr. Hart, (who, being officials themselves, in the employ of government, were entitled to a hearing,) that if his Majesty could personally reply to a letter from the President of the United States without derogating from his authority or dignity, he certainly could write a letter to him with equal propriety. The question had been often discussed whether it was suitable in every respect for the American minister to transmit his letter of credence to the Emperor instead of delivering it in person, but the result has answered a purpose that one cannot object to, and has probably incidentally furnished a strong argument for those officers who, in a few years, must go further, and claim for him an audience at court.

I have read the translation of the letter addressed to the President, and I am confident that you will not find anything in it savoring of the extraordinary assumption on the part of the Emperor which runs through the two replies quoted in the other dispatch. It completes the full authority and authenticalness of this new mission to the western world on the part of this ancient empire, the first, I believe, which it ever sent from its shores to other lands on a footing even approaching to equality. Previous embassies have been sent in a patronizing, authoritative style, requiring the rulers of other countries to humbly accept the envoys and behests of his Majesty; this goes to confirm and develop an intercourse mutually beneficial to all. Since its formation public opinion has been much divided as to its propriety, and some objectors have openly expressed their opinion that the whole affair has been got up by a few foreigners in Peking for their own advantage, and added their hopes that the western powers will reject it as a hybrid mission whose existence is an anomaly and its objects impertinent. Happily their number is few, and their clamor will, I think, meet with little attention.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Williams to Mr. Seward.*

No. 8.] LEGATION OF THE UNITED STATES,
*Peking, March* 13, 1868.

SIR: Referring to Mr. Burlingame's dispatches Nos. 137 and 142, and their inclosures, I have now the honor to forward to you General Legendre's report of his visit to the southern part of Formosa, and his interview with the chief of the aboriginal tribes in that region, by whom the crew of the Rover was destroyed. The narrative is well worthy a perusal, and the success of this effort to enter into direct communication with them may lead to the repetition of similar negotiations as the most

promising means of preventing similar tragedies in future. I am sure that you will appreciate the perseverance and tact exhibited by the consul in carrying out his design, while his final arrangement and compact with the chief was doubtless owing as much or more to the impression made upon the savages by the energetic proceedings of Admiral Bell with his squadron, than to any other one cause.

I have no knowledge of the occurrences referred to by the Chief Tooketock, at the interview on the 10th of October last, wherein he excused his cruelty to the Rover's crew by alleging that "a long time ago white people had all but exterminated the Koolut tribe, leaving only three who survived to hand down to their posterity the desire for revenge." No such raid upon this region is recorded as having taken place in modern times; but it may possibly have been some proceedings of the Dutch troops in Tai-wan before the year 1683, (when they were driven from the island,) which have left this heritage of enmity. I have never heard of any expedition of Spanish colonists from the Philippine Islands to the southern end of Formosa; their settlement was at the northern end, at Killon or Ki-lung. Several foreign crews have been cast ashore, not far from where the Rover's crew met their fate, during the last 20 years, from which few persons have survived.

I would have forwarded this narrative sooner, but it reached me only last week. The communications between Peking and Shanghai during the winter are slow, and one of the couriers going to Chinkiang with the foreign post-bag last month was killed in Shantung province by the insurgents and the letters lost.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Le Gendre to Mr. Burlingame.*

UNITED STATES CONSULATE, *Amoy, November* 7, 1867.

SIR: Referring to my dispatch No. 17, I have the honor to state that, on the 3d of September last, the steamship Volunteer, in the Viceroy's service, anchored at Amoy, and the next morning the officer commanding the vessel called at the consulate, with an interpreter designated by the Viceroy to accompany me during the expedition. It was to inform me that the steamer was placed at my order.

Yet the arrival of the Volunteer having been expected for some days, and her destination being known, some excitement was caused at Amoy, and during the day I noted an unusual agitation at the British consulate, the bearing of which I could not then well apprehend, but which has since appeared to be not entirely foreign to the difficulties I had to encounter. Many of the British, under the most tempting pretexts, offered to accompany me; but I concluded to decline all applications save that of a French traveling gentleman, Mr. Joseph Bernare, who, from his knowledge of Formosa and the Chinese, was qualified to act as my secretary with a devotion I had learned at other times not to doubt of.

At 5 p. m., on my way to the vessel, I met the interpreter and the officer in charge of the Volunteer, showing appearance of great haste. They said that a dispatch from the Viceroy at Foochow ordered them to take me simply and directly to Takao; and further, that the Chinese admiral at Amoy wished to accompany me, and therefore the departure of the steamer would be postponed until the next day, at 12 m. This circumstance, which I had not been called to foresee during the official interview of the morning, led me to suspect some hostile design, and I hastened to embark.

Arrived on board, I communicated to the mandarin the dispatch of the Viceroy, in which no mention was made of my departing for Formosa being dependent on the pleasure of an admiral or any other official. The steamer was placed at my order, not to Takao, or any other specified port, but to Formosa. Hence I insisted on starting at once for Taiwanfoo, where I had to go first. Yet night had come on, and, yielding to

the representations of the mate that there would be some danger in leaving the port of Amoy that same evening, I agreed to leave the next morning at daylight.

On the 5th, at 6 a. m., we went to sea, hoisting the United States flag at the mast-head. On the morning of the 6th we were in Taiwanfoo.

The authorities, notified of my coming, sent at once an officer with the means of transportation to proceed, with the usual ceremonies, to the house prepared for me. I had just entered when the prefect called, wishing to make me the first visit. We agreed to call the next morning upon the intendant.

I received from the first civil officers in the place the most flattering welcome. There had gathered the Taotai, or intendant of circuit; the Chintai, or general commanding in chief, and his second in command—all red buttons of the second grade, with the prefect and the sub-prefects. I immediately came to the object of my visit, and it was indeed with admirable unanimity that the Chinese officials made me the most handsome promises in regard to the measures which (in your name) I had required them to take, and which had been ordered in unequivocal terms by his excellency the Viceroy. The first wing (?) of the army had left in advance of me, and prompt and entire satisfaction should be made to my demands. I then answered that, fully satisfied with their readiness to comply with the just demands of your excellency, I had made up my mind to witness in person all the details of an expedition which promised so well, and I begged them that no time might be lost in carrying it out.

The effect of my declaration was soon noticeable, first in the faces, and then in the language of the officials. This expedition, which an hour ago they announced as being so prompt to move, of necessity must suffer many delays, from the nature of the movement itself as well as of the localities through which we must pass. Of course, a portion of the army had already left, but the last corps was not ready to follow. The general in command had yet a great deal of business to attend to before he could leave Taiwanfoo; moreover, in a country where the Chinese authority had not been well established, we could not advance but with excessive caution. There would be also danger to the person of the consul, and they could but decline such a responsibility.

I came at once to the conclusion that the officials had at one time hoped they could elude the order of the Viceroy, so onerous to the purse of the intendant, and that the difficulty could be removed by means of a comedy played at a distance, and among themselves, without any troublesome witnesses, in which a few heads of savages sent to Foochow with great display would be an easy and less expensive denouement.

I therefore insisted, relieving the generals of any responsibility for my personal safety, and assuring them that I had not come to Taiwanfoo merely to hear what they had to say, but I had come to Formosa to judge for myself, without regard to fatigues, as to the measures taken to execute the orders of the Viceroy. In vain did the former attempt a diversion by inviting me to partake of a collation just made ready. I refused to adjourn the discussion even for an hour, and declared my determination to put back forthwith to Foochow. Hearing this, he tried a few words of explanation, and the general, (the ranking officer on the island,) whose determination, unusual culture, and high mind, had led him to perceive in advance of the rest that they had to decide either in the affirmative or negative, settled the difficulty by taking upon himself to say that we would leave within three days. We all gathered around the tables, and not another word was uttered as to the object which had brought me to Formosa. On my return home I received the visit of the various mandarins, and in the evening the six highest authorities of the island sent me a collective invitation to dinner at the prefect's, where a most brilliant reception was tendered us.

As agreed, on the morning of the 10th we left Taiwanfoo, occupying the center of the column. The prefect had most liberally provided transportation for myself, Mr. Bernare, the interpreter, and one or two servants, as well as for our luggage and provisions. Finally, an escort of honor of eight men preceded me, and were to remain with me during my stay in Formosa. Leaving Taiwanfoo, we followed a very narrow road, yet practicable for chairs carried by skilled bearers. In the evening we made our first halt at Athon-Kien, (see map.) The next day, at dusk, we reached Piton, a large town of 70,000 inhabitants. Here there was a review of the troops by General Lew. But there being no appearance of advance, I called on the general for explanation. His excuse was, that on leaving Taiwanfoo he had been furnished by the intendant with only the insufficient sum of $5,000. But he promised to make up the deficiency himself in case the other delayed much longer. He begged me to believe that he was most anxious to execute the orders of the Viceroy, and said that I should hold the intendant, and not him, responsible for any delay. Thus I had to note once more the wisdom of the Viceroy in intrusting the command of the expedition to a man of such ability, and so ambitious of distinction. I believe that he thoroughly understood that day that the orders of the Viceroy had to be executed under my eyes, and with all possible celerity. He agreed to leave, in any event, on the 14th.

On the morning of the 14th the intendant had not been heard from. We left, however, advancing towards Long Kong by a narrow road, crossing in our way four streams, on light bamboo rafts. Long Kong is a small port of difficult access, but secure for

junks. The main products are rice and sugar cane. At this town Chinese authority practically ceases. Here, however, taxes are paid more or less regularly. We spent the night in a sugar refinery, and left at daylight for Pangliau, which we reached the same night. Pangliau extends along the shore at the summit of an arc of a circle forming a bay, and is therefore too open to be secure. The products are rice and peanuts. Women pound the rice and till the fields, while the men are entirely taken up with fishing. To the east, at a cannon shot from the sea, rise abruptly from the valley high mountains, the exclusive domain of the aborigines, who receive from the Chinese (or half-caste) population a certain share of their crops, as a royalty for the lands they have rented to them forever. There, for the first time, we notice that none leave the village without being armed.

We were still far from our destination, and at the foot of high hills occupied by savages. There were no roads, but only hunters' paths, and these never yet traversed either by Chinese or Europeans. Nor, on account of the monsoon, was it practicable to reach the southern bay by sea, and we were therefore by force of circumstances apparently condemned to a rest the end of which no one could foresee. Fortunately, on the next day the general received 8,000 taels from the intendant, and he was most anxious to advance. I thought the circumstances favorable to hazard my advice, a thing which, until then, I had declined to do, being anxious to avoid taking any part in the management of the expedition. I intimated that it would not be impossible to cut a road over the mountains. We had to do it at intervals over a line some 40 or 50 miles long, and if there was no interference on the part of the aborigines, with whom we were not at war, the work might be accomplished in four or five days. The general seized my idea at once, perceiving how he could thus be extricated from his difficult position. Moreover, the result of opening such a way would be to establish a connection between the northern and southern parts of the island. Such communication, prompt and sure, would withdraw these aborigines from their isolation, and open the way for the establishment of Chinese rule over them. The Bootan tribes, whose territory we were to pass through, made no opposition, and the work commenced.

A fortunate diversion in our monotonous stay at Pangliau occurred in the arrival of two young Englishmen, Messrs. Pickering and Holmes. The former I had met six months before, in my visit in the United States steamship Ashuelot. Knowing him to be versed in the various dialects of the aborigines, I had begged him, in the name of humanity, to proceed to the south point with a view to rescue, if possible, the Rover's crew, and he had promised to make the attempt. He had accompanied Admiral Bell in his expedition to the southern bay. They were now returning from the southern bay, where they had gone for the purpose of recovering the remains of the lamented Mrs. Hunt, and of rescuing eight Bashee islanders, who had been cast on the southeast shore, and who, after losing two of their number by the hands of the savages, had been reduced to slavery. They had expended all their funds furnished by the British consul, Mr. Carrol, from the moneys appropriated to this humane object by his government, ($350,) and were reduced to their last resources. Having done the best I could for the poor Bashees, I sent them to General Lew, who supplied them and gave them a guide to Takao. At my request he ordered the money advanced by Mr. Carrol to be refunded to him.

As to Mr. Pickering, who had succeeded both in the rescue of the Bashees and in recovering the remains of Mrs. Hunt, I did not hesitate to accept his kind offer to remain with me. From his knowledge of the island and people he was enabled to render me valuable service.

The road across the mountains being finished, we left Pangliau at noon on the 22d. The same day, having crossed without opposition a high range of hills, we came to Chitong-kiau, a half-caste mixed village, on the sea-shore. We went again across another range, arriving at dark at Tong-kau, where we spent the night. We had gone half of our way without meeting other difficulties than such as arose from the nature of the localities. All concurred in predicting opposition from the savages on the next day, but nothing of the kind happened, thanks probably to the care the general had taken to occupy the doubtful passes by detachments of his troops, and the same evening we safely reached Liang-kiau.

Liang-kiau is situated at the far point of the curve forming the bay of that name The port is not secure, for on the evening of our arrival we saw the wreck of four junks. There are about 1,500 inhabitants, mostly engaged in the culture of peanuts, rice, sweet potatoes, a little sugar cane, and also in fishing; some, however, trade with the aborigines.

To this place General Lew had sent in advance an officer, to prepare the population and explain the object of the expedition. Following the sea towards the south for one-half hour, Tan-tiau is reached. It is another small port, where the Chinese authority is but little respected. There the anchorage for junks is excellent, at the mouth of a small river, and there, in fact, was the rendezvous of the flotilla, carrying the heavy artillery and munitions of our small corps of operations. On the left, in the plain near the mountains, at one hour from Tan-tiau, lies Poliac, a village settled by a race of

Hakkas from Kwang-tung province, crossed with the aborigines. They consider themselves to be the subjects of Tooke-tok, the Chief of the 18 tribes of the aborigines occupying the southern end of the island, as well as of the Emperor of China. Poliac is the entrepot of the aborigines. There they find gunpowder and shot; there are manufactured their guns, excellent arms, much superior to those used by the Chinese soldiers.

Further yet, coming back to the sea, that is to say to the right, at five hours' march from Tan-tiau and Poliac, and in the heart itself of the mountains, nearly at the center of the southern bay, may be found the half-caste village To-su-pong, where no Chinese ruler had ever penetrated. China ends there. The space bounded by a line going east and south from Poliac to the eastern and southern shore of the island is occupied by the Hwan tribes, 18 in all, numbering 955 warriors and 1,300 women and children, and forming a confederation under Tooke-tok of the Telassok tribe. Among them the most prominent are Bootan, Hwan, Ca-che-li, Cu-su-coot, Pat-ye-ow, Cheu-a-kiak, Duk-sé-ah, Ba-ah, Bomg-hoot, Sa-bo-ou, Pe-po, Kow-lang, Ling-miano, Koo-luts.

General Lew had an excellent base of operations at Liang-kiau, having the sea on the right, and holding the new line of communication with Taiwanfoo. He had Tan-tiau in his hands; a few pieces of artillery and a small force enabled him to hold Poliac; and his army could advance by a good wide road in the direction of the point, and fall on the Koo-luts from the summit of their mountains, and drive them into the sea without possible escape. For this operation it is well that he did not require a large force of regulars. For of the 1,000 men promised, only 500 had been furnished, and these, although armed with good European rifles, were inadequate to the task before them. On my remarking this to the general, he informed me that he had enrolled 1,500 of the country militia, who had been trained in the school of adventure in their fights with the savages. I could not but fear that men called away at the time of the rice harvest would not have much ardor in their work. And there was the risk that when they came to action they might, after all, be better affected towards the savages, from whose friendship they could derive *gain*, than towards the Chinese authority, that could only make *promises*. Whatever might have been the case, it is certain that these considerations had an effect on future operations.

Before reaching Liang-kiau, and while preparing for his advance, General Lew had issued a proclamation announcing the object of his mission, viz, the destruction of the Koo-luts for the murder of the crew of the American bark Rover, thus rectifying the first proclamation, in which the Rover, in consequence of written information received from Mr. Carrol, the British consul at Takao, was qualified as a British bark. This proclamation, backed by the unprecedented military display, had deeply impressed the half-caste population, and the effect had also extended to the savages. So that the latter, doubtless in consequence of the terror inspired by the presence of the troops, and also being solicited thereto by their Chinese friends, who feared the consequences of war, sent, on the day of our arrival at Liang-kiau, a Chinese and half-caste deputation to convey the assurance of their regret and deep repentance for the murder of the Rover's crew, and to promise in their name that the like should never occur again, if the general would only agree to make peace. For this the Chinese professed their willingness to become sureties. This disposition on their part having been announced to me by Mr. Pickering, previously to being communicated to me by Lew, I frankly said to him that I considered it quite in accordance with the generous policy of the United States to sacrifice a vain revenge (which might be hereafter used as a pretext for retaliation) to the incomparable advantage we would gain in securing against the recurrence of crimes such as we had come to punish. Still, that I did not wish to force upon them a solution which might be contrary to their instructions, and consequently I would decline lending my hand to it unless they were quite disposed to accept it. Having received the assurance that such was the case, after many and prolonged interviews I demanded the following:

First. I must see Tooke-tok, and the chiefs of the 18 tribes, in order to receive in person their regrets and assurances for the future.

Second. The Chinese authorities must furnish me with the bond of the Chinese and half-castes from Liang-kiau to To-su-pong.

Third. They must require of the savages the refunding of the expenses incurred by Mr. Pickering in recovering the body of Mrs. Hunt, and new efforts were to be made towards recovering any effects of Captain Hunt in the hands of the savages.

Fourth. A fortified observatory must be erected at the southern bay, as a guarantee of imperial protection at a place where it has hitherto been wanting.

We agreed to act on this basis, and the delegates of the savages undertook to arrange the contemplated interview at Poliac within three days. Yet the day preceding the proposed interview with the chiefs, before taking the responsibility of promising to forgive and forget, I thought it prudent to obtain in writing from the Viceroy's agents the acquiescence they had so willingly given verbally, and I wrote them a note to that effect, asking for a speedy reply. Ill-served, I doubt not, by my interpreter, who had agreed to hand the letter to the generals and explain it, I saw the day passing away,

but no answer. Yet Tooke-tok, the 18 chiefs, and a numerous escort had arrived the same evening at Poliac, and sent me word that I was expected on the morrow. On the other hand, the delay of the generals in answering my note caused me to suspect some evil design on their part, and made it my duty to be all the more cautious before passing my word to Tooke-tok. I therefore notified them that I would not meet Tooke-tok before receiving their answer, and such delay would probably ruin everything. It was in vain; they gave me many specious excuses, but no answer.

The next morning I requested Mr. Pickering to see Tooke-tok and explain to him why I could not come. He found him in Poliac, attended by 600 warriors. Yet the desired answer from the generals had not been received, and, the day advancing, Tooke-tok, unable to find proper quarters at Poliac, or perhaps suspecting treachery on the part of the Chinese, or else tired of waiting, concluded to leave. General Lew, who by that time had come to the conclusion to answer my note, was visibly troubled at the disappearance of Tooke-tok, and begged of me to let him arrange another interview with the chief. I consented, and three days afterwards was informed that Tooke-tok would meet us at the Volcano, some four miles from the east coast of the island, i. e., in the midst of savage territory. We left on the morning of the 10th of October, without other escort than Mr. Bernare, Mr. Pickering, three interpreters, and one guide, and reached our destination at noon. I found Tooke-tok surrounded by a number of chiefs, and some 200 savages of both sexes. We sat on the ground without ceremony, in the center of the group. We were unarmed—they had their guns between their knees. All knew what had prevented me from meeting them before, so without preamble I began by asking what could have led them to murder our countrymen. Tooke-tok hastened to reply that, a long time ago, white people had all but exterminated the Koolut tribe, leaving only three who survived to hand down to their posterity the desire for revenge. Having no ships to pursue foreigners, they had taken their revenge as best they could. I observed that in this way many innocent victims must have been killed. "I know it," said he, "and am an enemy to the practice, and therefore sought to join you at Poliac to express my regrets." I then asked him what he intended doing in the future. His answer was, "if you come to make war, we shall resist you, of course, and I cannot answer for the consequences; if, on the contrary, you desire peace, it shall be so forever." I told him I had come as a friend, and on hearing it he put his gun aside.

I added that we were not unwilling to forget the past, but that in the future, far from murdering the unfortunate castaways, he should promise to care for them and hand them over to the Chinese of Liang-kiau. He promised to do so. I added that in case a crew was sent ashore for water, or anything else, they should not be molested. This point he agreed to, and we settled upon a red flag (at the chief's request) as a sign through which ships would make known to him or his tribes a desire to land a party for friendly purposes, under the contract we had entered into that day.

I then hazarded the question of the fort. I wished it to be erected at the center of the bay, where the unfortunate Lieutenant McKenzie met his fate. But Tooke-tok refused; it would bring misfortune on his tribe. "Every one in his own place," said he; "if you place Chinese in our midst their bad faith will cause our people to rise in anger. Build your fort among the half-castes; they will not object to it, and it will satisfy us." I assented to his request, when, rising, he addressed me, saying, "We have said enough; let us depart, and not spoil such a friendly interview by words that would make us enemies." All my efforts to retain him failed. The interview lasted three-fourths of an hour.

Tooke-tok is a man of 50; his address is easy, and his language most harmonious; his physiognomy is sympathetic, showing great strength of mind and indomitable energy; he is of a sanguine temperament, not of a high stature—even small—but square-shouldered and well built; his hair, which is gray, is shaved on the fore part of the head, in Chinese fashion, and he wears a small queue 12 or 15 inches long. But his costume is peculiar to his race, and distinct in all respects from the Chinese.

The same day, instead of returning to Liang-kiau, we went to the left, across the territory of the savages and of the Ling-hwan, directing our steps to the southwest part of the island, called To-su-pong, where I decided to locate the fort. This location is on a promontory, one mile distant from a small half-caste village called To-su-pong. From it can be seen every part of the bay; we could distinctly see the roads followed by the expedition of Admiral Bell, and boldly projecting was the fatal rock—a gloomy mass of trachyte—near which fell McKenzie. Full of thought about this painful spot, we set out to return to Liang-kiau, to hurry on the erection of the fort and the writing of the bond to be given by the Chinese and half-caste population.

The establishment of a fort had often been the object of a serious controversy between General Lew and myself; not that he would systematically oppose it; he had, on the contrary, acknowledged its advantages to the Chinese; but because of an obscure point in the Viceroy's instructions he did not feel authorized to erect it before he conferred with the Foochow or Peking authorities. I could scarcely subordinate my departure to such delay, and yet I wanted the fort. I wanted it because of its asserting the

Chinese authority where it had been so long denied, for I considered that it would command respect from the Koo-luts, in case they happened to lose sight of their promises; finally, and chiefly, because it would become a sure refuge for the too numerous victims of these stormy seas. In short, I insisted, and we agreed at last, that a temporary fort should be erected at a point selected by me, and that in it they would place two guns, a small force of regulars, and 100 militia. This provisional arrangement was to be converted into a permanent one as soon as the more explicit orders, that I was asked to solicit, should have reached Taiwanfoo. I declared myself satisfied; for I did not imagine that the Viceroy would break his word with me; and should he, I could then appeal with confidence to the instructions of your excellency.

I must here render full justice to the loyalty of the general. In two days he had erected a circular inclosure, formed of trunks of palm trees and sand-bags, which I visited in company with the generals. I did not see exactly 100 men in the fort, but I concluded to shut my eyes to this deficiency; as a compensation, doubtless, there were three guns, instead of only two, as promised. Over it the Chinese flag waves.

We were about coming to the conclusion. The general had handed me a spy-glass and nautical instruments belonging to the Rover. I had the body of Mrs. Hunt. Mr. Pickering had left to bear to Tooke-tok a red flag I sent him. I had only to consign to a regular writing with the Chinese authorities the results of the expedition. These documents established a joint responsibility in this humane duty between the savages and the Chinese from Liang-kiau bay to the fort of To-su-pong. It is the morale of the whole expedition.

This brings us down to the 15th of October. I then thought of returning. I did not then know to how many annoyances (not to say humiliations) I should be subjected during this closing part of my mission. The steamship Volunteer, from the time I left with the two generals, had gone to Takao. Later, when I saw that we were really on our way to the south, I requested (by letter) the officer commanding to proceed to Liang-kiau. The answer was that the Viceroy had ordered the steamer to remain at Takao; but on the 11th of October I received a dispatch to the effect that he had waited long enough, and that I must fix the date of my return to Amoy. I did not answer the communication, but on the morning of the 16th I sent my interpreter to Takao to say to him that, my mission in Formosa having come to a close, I wished him to proceed to Tan-tiau and save me, after a hard trip of nearly two months, the fatigue of a long journey to Takao; and I said that I would take upon myself all the responsibility.

I remained four days at To-su-pong after the withdrawal of the Chinese troops. On the 20th, the British gunboat Banterer arrived, on her way back to Amoy from the Bashee islands. I met her commanding officer and the British consul at Takao on the beach. At their request, I furnished them with the main points of my mission, and its results. I refused their kind offer of a passage to Takao, and returned to Liang-kiau. There I found Mr. Pickering, just returned from a visit to Tooke-tok, from whom he had received a most cordial reception. The Chinese had not been so fortunate. They had sent a deputation to him to secure for their countrymen the protection promised to foreigners. The chief answered that he had done nothing, and would do nothing, with the Chinese officials. The deputies insisted, stating that the chief was simply desired to treat of matters of mutual importance. Said Tooke-tok, "If it is simply to talk, I can send my daughters," and at once he begged Mr. Pickering to escort them to Liang-kiau, begging him to see them safe back to their friends at Poliac. Those two girls appeared without fear before the Chinese officers. Refusing to kneel before them, they boldly said that their father had treated with the foreigners because he respected their courage. He had seen them fearlessly ascending the mountains under fire, (alluding to the bold charge under Lieutenant McKenzie;) they had met him on his own territory to treat of peace, and their intentions were clear; but it was different with the Chinese officers, and he desired to have nothing to do with them. Having delivered this message, they refused to say more, and returned to Poliac with Mr. Pickering. Trifling as it may seem, this circumstance, together with the intrigues of the interpreter, had a great deal to do with General Lew's change of manner towards us. We had given him no cause whatever for irritation.

On the morning of the 21st we made our parting visit to the generals, which they returned the next day. In the afternoon we received a note from the interpreter, stating that he had failed to induce the officer to bring the Volunteer to Liang-kiau, and that we must be at Takao on the 25th, the day fixed for his departure.

We could not well leave the same evening by land, the general having but two chairs for us. We concluded to go by sea in a junk offered us by him. The wind was fair, yet we made no progress, as we kept continually tacking about, and in the morning we returned to Tan-tiau. It was with great difficulty that we could get even two chairs, so that there was no conveyance for Mr. Pickering and our servants. Then, as we could not return with the army, we needed an escort. Mr. Bernare, who saw Lew on this occasion, was instructed to accept without discussion any transportation that might be offered. But when he heard that the military escort was refused, he observed to the

general that I was suffering from an old wound in the eye, and could not but be troubled by these dispositions, so different from my expectations. His answer was, he regretted it, but it was all he could do. Having directed Mr. Pickering to proceed on foot and detain the Volunteer until our arrival, I started with the generals the next day. We advanced rapidly, and at noon were at Long-kong, where we received no hospitality. At 3 p. m. we were at Chi-tong-kian, and could have reached Pangliau the same evening. Suddenly our coolies halted, leaving us in the middle of the street, and disappeared. Having waited an hour, we were informed by one of our servants that the general intended to stay there that night. I sent Mr. Bernare to him, who was told that the coolies were tired, and that he could not force them to go on. In vain did Mr. Bernare observe that the coolies will go on if the Chinese authorities only *permit* them to do so. We were at their mercy.

Fortunately we found a small junk loaded with wood. I hired it, paying partly in advance. But we had to wait an hour while she was unloading. While this was going on, we noticed an officer in disguise ordering the owner of the junk not to take us. The man hesitated. But having received from me the promise of protection, he concluded to take us on. The next day, at 11 a. m., we were at Long-kong, and the wind having changed, we went ashore and made our way on foot to Takao, where we arrived in the middle of the night.

On the 25th, as we had been notified, we were on board of the Volunteer. But now that we were on board the commander refused to leave, and I had to give him a peremptory order to start the next morning. During the day Mr. Carrol sent me a note, stating that he was expecting important dispatches from Taiwanfoo, and had requested the Volunteer to be delayed one day, believing that I would have no objection. I called upon him to say that I was, to my great regret, compelled to leave at once.

Having left at last with a favorable wind, suddenly, without a word of warning, we put back to Taiwanfoo. What could I say or do, but submit? The next morning the wind had fallen, the sea was as calm as a lake, yet we remained at anchor. At length we set out, but only in a short time to put in at the Pescadores. In short, having left Takoa on the morning of the 26th, we reached Amoy at 5 p. m. of the 30th. Two months before we had made the trip in 18 hours!

What am I to see in all this? Chinese intrigue—English jealousy? I do not know whether it is worth while to inquire. As for myself, it all seems as nothing before the spectacle of our government, guided by the true policy initiated by your excellency, compelling the Chinese authorities, through the force of persuasion alone, to do their duty in an unmistakable manner, and calling all civilized nations to partake of the benefit of these effects.

Before closing this I beg to be allowed to mention here the names of the two gentlemen of good social standing, who, without any possible hope of reward, have not hesitated to freely lend me their aid in the accomplishment of a mission which has proved laborious to me, while for them it has been full of danger and privation. They are Mr. Joseph Bernare, of Canton, and Mr. Pickering, of Taiwanfoo. Mr. Pickering was by the side of Lieutenant McKenzie when shot by the savages on the 7th of June last.

I have the honor to be, sir, very truly, your obedient servant,

CHAS. W. LE GENDRE,
*United States Consul.*

His Excellency ANSON BURLINGAME,
*United States Minister at Peking.*

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### *Mr. Williams to Mr. Seward.*

No. 11. LEGATION OF THE UNITED STATES,
*Peking, April* 20, 1868.

SIR: Your dispatch No. 214, of September 13, 1867, relating to the indemnity fund, was received by Mr. Burlingame at Shanghai, but owing to the difficulty of postal communication I did not receive it till the 24th of January. I soon after wrote to the depositary at Kong Kong to inquire when the remainder of the fund could be moved without loss of accruing interest, but have not received an answer; for I wished so to time the orders on the bank that the interest payable on the fixed deposit should not be lost, which would be the case if presented before the time had expired. It seemed to me undesirable to lose some $2,500 in this way; and, moreover, it may be that, by the month of July, when I expect to receive the final account, the rate of exchange will be more favorable

than at present. The portion used for building purposes will also be sent at the same time, and as your dispatch mentions no particular time to do so, and specifies no purpose for which the money is wanted, I hope that no inconvenience will be suffered by the short delay. I trust that you have duly received the account and advices from Messrs. Olyphant & Co., accompanying the remission of the bills for the $220,000 at various dates up to December 1, 1867.

In the dispatch now acknowledged, when speaking of the application of part of this fund to building purposes, you refer to my explanations given in the letter sent last spring, and I fully appreciate the favorable terms in which you mention them. Yet, in view of your remarks, a reperusal of my letter of March 12 leads me to think that I failed to state my reasons fully. You say that you "cannot find any warrant in law for the appropriation of the interest or principal" to erect these buildings, and I did not suppose there was. No law existed, that I knew of, applicable to the case. The chief diplomatic agent of the United States had been left in charge of the fund from the first; he had some years ago removed it from the Commercial Bank to the Oriental for greater security, and when I decided to apply a part for building, one motive was the still greater security of what was so used. The Commercial Bank had failed, the Agra Bank was tottering, several large English houses had gone down, and it was known that the Oriental Bank had suffered heavy losses in India.

In this state of things, such an investment seemed to be one of the safest modes of placing the money, which I supposed at the time was not likely ever to be removed from China. It seems to be due to myself to bring this again to your notice to show that I had the best interests of the fund in view, as well as to provide a residence for the representative of the United States. I still cherish the hope that this surplus fund will be set apart by Congress for the promotion of learning among this people, by founding an institution in this city, as has been already set forth in former dispatches.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Williams to Mr. Seward.*

No. 12.] LEGATION OF THE UNITED STATES,
*Peking, May* 26, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatches addressed to Mr. Burlingame, Nos. 220 to 225, inclusive, but No. 219 has not yet come to hand. That of October 7, 1867, (No. 221,) relating to the extension of the light-house system in China, has been communicated to Mr. Hart, who has promised to send me a report showing what has been done up to this date. The two sets of the publications and plans of the United States light-house board, referred to by Major General Delafield, have not yet been received.

His Imperial Highness Prince Kung, and Sir Rutherford Alcock, her Britannic Majesty's envoy, have each recently appointed their deputies, to discuss the proposed modifications to be made in the treaty of Tientsin, most of them having for their object the better execution of its exist-

ing stipulations. The 27th article of the British treaty provides for the revision of the tariff and commercial articles, and the main purpose in view is, I understand, to promote the extension of trade throughout the provinces, and to open up their resources to general use and advantage. These desirable objects will, it is thought, be greatly promoted by allowing steam vessels to navigate the inland waters of the country, partly for the purpose of bringing down British property from depots in the interior to the ports, and partly, when so doing, to facilitate the collection of the legal transit dues on that property.

But the great and beneficial result of such an extension of steam navigation would, I think, be seen in the increase of the passenger traffic up and down the rivers of China, and a rapid development of the internal carrying trade. The hazards now attending the navigation of these waters from dacoits or river-pirates, ill-constructed boats, and unskillful sailors, as well as their slowness, prompt the native traders to avail themselves of steamers whenever it is possible, and the number of passengers carried by them increases daily. Steam is a great civilizer, and if its power can be used to bring the people of this land into better acquaintance with each other, it will tend to the maintenance of peace, security of travel, and prosperity and strength of every department of government. For these and other reasons I regard the extension of steam navigation in China as fraught with many advantages.

During the last six or eight years the course of the foreign trade has tended more and more into the hands of natives, and in some of the open ports nearly the entire traffic is now under their control. Some of the causes are to be found in their cheaper style of living, their better knowledge of the products wanted, and accessibility to the consumers further inland. The ignorance of most foreigners of the language puts them at a great disadvantage with natives, who avail themselves of the information imparted to them respecting foreign markets to promote their own interests. These and other causes are everywhere tending to throw the foreign trade into the hands of natives, who now usually obtain their own prices for native produce, and combine to control markets. The internal traffic nearly all belongs to them, but they own few or none of the steamers or other vessels in which it is freighted from port to port.

If, therefore, the imperial government can be induced to permit steamers to navigate its internal waters, the natives would probably still get the chief advantages of the change, even in trade; for the local dealers and brokers would countervail the foreigner at every depot and carry on the business. However, cheaper transportation and fixed transit dues would render all goods cheaper, and in this way both parties would benefit; but my impression is that the foreigner will still remain, as he has been, an importer merely, and cannot compete in the inland commerce. It is natural that it should be so; and although some untoward results may attend the access of steamers and foreigners to remote parts of the country, the advantages will doubtless outweigh the evils, while a few years' experience will furnish data and means for regulating and avoiding them.

In order to understand all the bearings of this change it is well not to overlook some of the undesirable results. In some portions of the country the inhabitants are lawless, and reckless foreigners are tempted to join them, or supply them with fire-arms, which are not seldom used against the government. The arrival of a small steamer for the first time in some of these regions would give rise, perhaps, to violence; and,

I regret to say, that experience has shown that strifes are more frequently caused by foreigners than natives.

Yet these acts would not be the rule, and could be restrained; their evil effects would be temporary, and far less than those caused by the impetus which would be given to the opium trade, by thus bringing it within the reach of multitudes who now do not use the drug. This traffic has remained nearly stationary during the last six years, at between 80,000 and 90,000 chests, whose market value has been about $60,000,000 annually—about 10 per cent. less than the annual export of tea and silk. Such is the passion of this people for opium, that its use is sure to increase as it is brought within their means; and that increase everywhere develops disorder, weakens law, encourages idleness, and saps the prosperity of the people. As this trade has increased since the year 1800 from about 4,000 chests to 88,148 chests imported last year, so have the resources, the energies, and the efficiency of the Chinese government and people diminished. The weakness of every department of state is supplemented by the disorders and seditions which have arisen in every province for lack of the strong arm which can repress them. I do not intend by this to ascribe all these evils to the use of opium, but they are intensified and developed by it. Among the literary classes and gentry, the army and lower ranks of civilians, indolence lends force to temptation, and opens the way for the novice too soon to reach the victimized smoker's end. The resistance which was once exhibited by passing stringent laws and denouncing its use on moral grounds has long since ceased, and no one now raises a voice against the drug. Those who consume the most return the least to the general stock of wealth, and every smoker more or less disables himself from performing his share of the national industry. The decadence of the moral sense of the nation, never very strong in a pagan land, has kept pace with its increasing debility and impoverishment, and the prospect at present is far from cheering.

I have digressed on this topic in order to explain why the Chinese are so slow to adopt some of the improvements which we urge upon them. They feel their poverty and weakness to cope with some of the propositions made to them, through an inadequate appreciation of their utility and urgency, and this sense of weakness makes them likewise afraid of the results. A great portion of their revenue is lost by disorders and rebellion in the regions which furnish it, and the outlays necessary to repress these disturbances consume much of what is collected. The extension of trade by the presence of foreign vessels into the remoter parts of the interior will do something to restore quiet; but it may also tend to transfer power to those who are able to insure security and peace, for the natural tendency is to lean on the strongest. Yet I think the advantages will outweigh the risks, and prove the wisdom of opening the waters of China to steamers by the many beneficial results flowing from it. It may seem unnecessary at this day to adduce reasons why it is desirable to promote greater intercourse between any portions of mankind, but the long seclusion of the Chinese leads both government and people to regard foreigners with fear and dislike, and therefore resist or hesitate at accepting whatever propositions come from them.

Yet if we look back to 1844, when the first treaties opened the way to five new ports, and then on to 1858, when the country and its capital became accessible to foreign influences, and compare the condition of things then with the progress made since, it will be better seen what a powerful stimulus has been at work to push this people and government

on in the way of improvement. The Chinese people are habitually peaceful, industrious, and law-abiding, and their officials, on the whole, have should a laudable desire to carry out the treaty stipulations, and even to adopt desirable modifications when shown to be useful. They had everything to learn in international law and its application to their peculiar position under the rules of ex-territoriality, but a candid appreciation of the advances made afford encouragement to hope for still greater progress, and show whether China can be renovated without destroying its institutions. This progress will rapidly accelerate as the people themselves become more acquainted with what foreign nations can teach and bring them; and among the influences now tending this way, not one of the least is the emigration and passing to and fro of the myriads who go to California and Australia.

In view of the present revision of the British treaty, it is desirable that instructions and powers be furnished to the United States minister in China, if it is deemed best to enter upon similar negotiations for the revision of the American treaty, during the coming year, so that he may be prepared to obtain the same advantages for his countrymen which others enjoy. Though the diplomatic mission sent last year to the treaty powers was designed, among other objects, to show them that this government is not yet prepared to accept all the proposals made to it, there is no determination to resist every change and return to the seclusion of former days.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Williams to Mr. Seward.*

No. 13.] LEGATION OF THE UNITED STATES,
*Peking, June* 8, 1868.

SIR: Referring to my dispatch No. 3, of January 11, 1868, relating to the reduction of the duty on tea-dust, I have now the honor to send you an additional correspondence supplementary to that. (inclosures A, B.) It appears that a question was started as to what was properly included under the term *tea-dust*, and in order to obviate any further doubt the Chinese government has reduced the limit under which the half duty is to be levied, from that costing 15 taels per pecul to that costing 10 taels. However, as no tea-dust has been in market for many years whose cost has reached 10 taels, the change has no practical bearing. It is said it has been customary at some ports to admit tea-dust from Japan at an ad valorem duty of five per cent., but the import is trifling. At Tientsin 765½ peculs of tea-dust and tea stalks entered last year, valued at 3,033 taels, or four taels per pecul.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

A.

*Prince Kung to Mr. Williams.*

[Translation.]

MAY 22, 1868, *(Tungchi, 7th year, 4th intercalary moon, 1st day.)*

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

On the 25th ultimo, Mr. Hart, the inspector general of customs, sent me the following report:

"On receiving the orders from the Foreign Office fixing the duty on tea-dust at 1*t.* 2*m.* 5*c.* per pecul on all that whose cost did not exceed 15 taels per pecul, while such as cost over 15 taels per pecul was still to pay the regular tariff duty of 2*t.* 5*m.*, I immediately gave directions to carry the same into effect, as the chief object of the change was to benefit the native merchants in their trade between the various ports. But when the duty on the cheaper sorts of tea-dust was placed at 1*t.* 2*m.* 5*c.* per pecul, I heard that foreign merchants erroneously concluded that all kinds of tea leaf which cost less than 15 taels per pecul were likewise included in this new regulation. As this would, in my opinion, be a detriment to the revenue, I have to request that orders may be issued directing that the tariff on tea-dust shall be fixed at 1*t.* 2*m.* 5*c.* for all that whose cost does not exceed 10 taels per pecul, while all whose cost exceeds that amount, whether sent from port to port or exported to foreign countries, shall pay the former duty of 2*t.* 5*m.* per pecul," &c.

An examination of this subject shows that tea leaf and tea-dust are quite different in many respects, and the object of making the new regulation was to reduce the duty in some proportion to the article, as was shown in the dispatch sent you on the 29th of last December. But if it is, as the inspector general of customs says in his report, that foreign merchants have mistakenly inferred from this that tea leaf itself (when under that cost per pecul) pays only 1*t.* 2*m.* 5*c.*, they have truly confused the matter. The rule must accordingly be changed in order to mark the difference more plainly, and the limit placed on tea-dust exported must accordingly be restricted so that the revenue shall not be diminished.

Hereafter the duty on tea-dust exported from any port shall be levied in accordance with this recommendation of the inspector general of customs. For all that whose cost does not exceed 10 taels per hundred catties, the duty shall henceforth be 1*t.* 2*m.* 5*c.* for that quantity, whether it is to be sent abroad or carried to another open port; while for that whose cost exceeds 10 taels per pecul, the duty shall be as before, at the rate of 2*t.* 5*m.* per pecul. By this arrangement the duty on the article will be clearly distinguished, and no doubt, too, to the advantage of all interested. Orders to act in conformity to this arrangement have been sent to the inspector general of customs, and this communication is now likewise sent, that your excellency may give the necessary instructions to all the American merchants to act accordingly.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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B.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, May* 28, 1868.

SIR: I have the honor to acknowledge your imperial highness's dispatch of the 22d instant, in which you inform me that in consequence of mistakes having been made by the foreign merchants, who inferred that the new regulation fixing the duty on tea-dust at 1*t.* 2*m.* 5*c.* per pecul applies also to tea leaf whose cost did not exceed 15 taels per pecul, you had decided, in order to protect the revenue, to adopt the suggestion of the inspector general of customs, limiting the reduced duty of 1*t.* 2*m.* 5*c.* per pecul on tea-dust to all that, whenever exported, whose cost did not exceed 10 taels per pecul; while all above that price should pay the former duty of 2*t.* 5*m.* per pecul, &c.

The articles of tea leaf and tea-dust are no doubt very different, and as I now learn from your imperial highness's dispatch that the foreign merchants have erroneously supposed that the cheaper kinds of the former were included under the new regulation, you have deemed it best, in order to prevent mistakes, to limit the reduced duty of 1*t.* 2*m.* 5*c.* to those kinds of tea-dust whose cost does not exceed 10 taels, which modification shall accordingly be made known to American merchants at the various ports.

I have the honor to be, sir, your imperial highness's obedient servant,
S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG,
*Chief Secretary of State for Foreign Affairs.*

*Mr. Williams to Mr. Seward.*

No. 16.] LEGATION OF THE UNITED STATES,
*Peking, July —, 1868.*

SIR: I have the honor to send you a careful translation which I have made of a secret memorial of Tsang Kwohfan, the highest in rank among the provincial governor-generals of the empire, and one of its most influential statesmen. It will repay perusal, not only as containing the opinions of an intelligent Chinese upon the various points on which his views were required, but from the importance of the matter and the probable influence of his decision upon the policy of his government during the coming decade.

Tsang Kwohfan is a Chinese, and regarded as one of the anti-foreign party, though he has not carried his opposition to the extent of resisting the orders of his government connected with the position and rights of foreigners. He feels, no doubt, a loyal sympathy with the danger which he thinks threatens his country through the craft and power of those who have thrice attacked it and forced the gates of Peking. This fear of untoward consequences from yielding to the new demands now made upon his country tinges this paper, and prevents him from candidly discussing their merits with his partial knowledge of their real bearings. He has been connected with the operations against the Taiping rebels during the last 20 years, and his capture of Nanking in 1864 gave him a commanding prestige that increased his influence in the empire. He is now over 70 years of age, and his long official life during four reigns adds weight to his opinion.

The standpoint from which he opposes the building of railroads and entry of steamers throughout the interior—that they will take the bread out of the mouths of the natives—has probably more weight in China than in any other country, and deserves our respectful consideration.

The occupations of the Chinese are hampered by no legal restraints of any strength. Every one is free to get his living in the best way he can. But when myriads of rustic, hard-fisted people, trained to a single line of labor, like boating or carting, are suddenly superseded by steamers or locomotives, their privations from such forced idleness may prove a serious calamity and real danger to their rulers. We have instances on record of their turbulence in other countries, one of which, cited by Josephus, showing the violence of the 40,000 workmen set adrift after Herod's temple was finished, will suffice; and those workmen were not unlike these Chinese in culture. These laborers are altogether too ignorant to understand the question, and go about to seek a livelihood in other directions, and here they find every other line of life occupied.

The opening of the river Yangtsz' to steamers in 1860 drove thousands of native craft off into its tributaries, and there they drove a strong competition with the boats already in those waters; and in their strife hundreds of boatmen succumbed to want and temptation. Even the native merchants, who sent their freight on the steamers, bemoaned the destitution of these boatmen, thus suddenly turned out of their old course of life, and said that many of them had to join the rebels to get food.

If the introduction of steamers has been bad for the native boatmen, and in these vessels the greater part of the crews can be safely composed of these same boatmen, how much worse would it be at first for the cartmen, muleteers, and cameleers, superseded by a railroad? They could not be employed in making the road which was to take away their daily

bread, for their services would be required up to the day of its completion, and then they would be thrown aside—carts, wagons, mules, camels, inns, cartwrights, drivers, innkeepers, and all—never more to be needed on that route.

In Europe, the thousands who were thus superseded knew enough to turn to other occupations, or to emigrate to America, or to get work in the road itself; but no such resource is open to most of the laboring Chinese in their ignorance and misery. Between Peking and Tientsin, for instance, a distance of 80 miles, there are probably 5,000 carts engaged in carrying passengers and produce, whose owners and drivers would unite to make themselves heard by their rulers if they should be left destitute on the completion of a railroad between these two cities, even if they did not resist its construction.

The question consequently comes up in this light to men in the position of Tsang Kwohfan, who have to provide for and previse the future, and who must look at it very differently from ourselves. They may be more apprehensive of the dangers than there is ground for, but, while they have not our experience of the results to the whole country of introducing a great improvement like this, it is also true that our experience, in the United States at least, is not applicable to a densly-crowded country like China. Until more knowledge is introduced among the people, more strength infused into the government, and more tranquillity established throughout the provinces, it is a question whether it will be safe to attempt a railroad system.

The points which Governor Tsang approves in this paper are more feasible; and I am told that the central government has concluded to allow him to make an experiment of working the coal mines near Nanking or Chinkiang with foreign machinery. If once this experiment is tried, I think its success in developing a vast industry will prove a strong inducement to try other mines, as, for instance, those near Peking and north of Canton; and this source of wealth being once opened prosperously, a rail or tram road to carry the coal to the boats or a market would follow under more promising inducements than can be now expected. It is worth mentioning, in this connection, that the great stimulus to Stephenson in opening his railroad was also to get coal to a market.

The favorable view taken of granting an audience to foreign ministers, and its correlative of sending envoys to foreign countries, shows that the writer has begun to yield those antiquated notions of supremacy of the Emperor of China over all other human potentates in which he was educated, and to appreciate the benefit of an equal intercourse with other powers. In doing this, I think his position led him to be willing gracefully to accept the *fait accompli* as the best thing, while that change in his opinion illustrates the advantage the members of the Foreign Office have in discussing these new steps and advancing faster than their subordinates in the provinces. His ideas respecting the diffusion of Christianity are the most singular, and indicate, probably, the average opinion of the literary and official class to which he belongs. As converts to a vital faith in Christ multiply, who show in their conduct and lives the power of the new principles they profess, this indifference and ignorance of our religion will give way to greater desire to know its tenets, and a determination to oppose or favor them by various high officials.

In reading this minute of Governor Tsang's, one is pleased to see his desire to discuss the several points in a candid spirit as he sees their bearing on the prosperity of his own country. He is evidently ignorant

of the principles of trade, and has not carefully collected or collated facts to illustrate his arguments; but he does not find fault with the general result of foreign intercourse upon the country during the past 10 years, even while he warns his sovereign against the new schemes.

This plan of previously obtaining the opinion of the high provincial authorities upon a certain number of grave points indicates, too, the care taken by the imperial government before entering upon a new course, and assures us somewhat that when a measure is adopted it will be maintained.

While I send this paper to you as worthy of your regard, it may not be altogether irrelevant to compare the sentiments of this Chinese and pagan ruler in regard to what is best to adopt for his country's good, and the willingness he shows to uphold the rights already conceded by treaties to the citizens of the United States, with the unjust manner in which the Chinese have been treated in our own country, especially in California.

The first article of the present treaty stipulates that "There shall be, as there has always been, peace and friendship between the United States and the Ta-Tsing empire, and their people respectively. They shall not insult or oppress each other for any trifling cause, so as to produce an estrangement between them."

While we have been very careful in this country to see that its rulers observe this stipulation, as a nation we have not taken corresponding measures to insure equitable treatment for the natives of China resorting to various parts of our shores.

It would be out of place for me to recapitulate the harsh laws by which, in California, the evidence of a Chinese in cases of murder or robbery was not allowed to be received, so that, at the last, the unrestrained license which this gave to reckless men to misuse these emigrants rose to such a pitch that one of the members of the legislature last winter moved to repeal these disabilities, because they allowed the practice of every crime, and the effects were becoming too serious on society. Enactments imposing a discriminating taxation against the Chinese, and other minor grievances, which put them below other inhabitants of the State, I do not so much allude to, for I hope they are most of them removed; but I refer to this proviso of the treaty as a matter deserving of the attention of our own government, which desires to carry out its treaty obligations.

We have deemed the Chinese to be a nation worth making a treaty with, but the United States have taken no measures to see that its first article is fulfilled. If the Americans in China had suffered one tithe of the wrongs that the Chinese have endured within the United States since 1855, there would certainly have been a war on account of it.

This unjust treatment begins to exert an unhappy influence upon those Chinese who are going and coming between the two continents, and the present seems to me a suitable occasion to bring it before you. The first article of our treaty most distinctly acknowledges some reciprocity between the contracting parties, and every one must acknowledge a reciprocal duty with a reciprocal privilege.

Rapidly increasing intercourse and the dictates of justice and good policy will ere long show the necessity to the national and State governments of establishing some better legal status for the Chinese population of the Pacific States.

I have the honor to be, sir, your most obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

Tsang, the acting governor general of the provinces of Kiangsu, Nganhwui, and Kiangsi, reports to the throne that, in obedience to the imperial will requiring previous consultations as to the points to be attended to in revising the treaties, he now reverently incloses a secret statement, upon which he humbly begs the sacred glance.

On the 20th of October last, I was honored by a secret dispatch from the general council, stating that on the 12th of that month the following decree had been received by that board:

"The Foreign Office has memorialized the throne respecting the desirableness of previous consultations upon revising the treaties, and requested that orders might be sent to the high military and civil officers, in whose jurisdiction are situated the coast and river ports open to foreign trade, requiring each of them to send in his views, [upon the points specified.]

"The period of ten years, at the end of which the treaties are to be revised, being near its close, the Foreign Office sent up a request that orders might be sent to the two superintendents of trade for the northern and southern ports, to select from among their ablest and experienced officers two persons to bring these several reports to Peking in November. We accordingly gave orders at the time to the proper officers to carry it into effect. But that memorial proposed that when these deputed messengers had brought up all the plans and careful suggestions, [of the provincial officers,] their deliberation must await our decision in view of the exigencies of the whole question.

"The month of January, 1868, being six months before the expiration of the British treaty, is the time when notice must be given of its revision; and the reports of all the civil and military provincial functionaries ought without fail to reach Peking by December, 1867. Then, when the several confidential orders from the Foreign Office respecting the articles to be discussed have reached their addresses, let the officers all examine this matter, in view of what the times require and our resources allow, so that everything be completely arranged, and a careful memorial be reported in reply. We shall thus be assisted in meeting the difficulties of the occasion, and they will fulfill the purpose of their offices. Respect this."

From this I am led to look up to his Majesty's far-reaching plans, by which he thus obtains the views and conclusions of the experienced and talented among his officers, and I have endeavored in the sincerest manner to carry out the design. The first dispatch and the secret letter from the Foreign Office have both been carefully considered in every point. The design is to firmly maintain our own views, without hazarding the safety of the present situation, connected with the desire to wipe out our shame and redress our wrongs without giving those parties reason to suspect our plans. A scheme like this is really doing what the times require and our resources allow, and I have most painfully labored to carry out the duties committed to me.

In order to aid in the consultations respecting the revision of the treaties, as soon as I received the confidential letter from the Foreign Office, in May, I sent directions to the collectors of each custom-house to make careful inquiries, arranging their reports under various heads. I myself most carefully examined them, and added notes as needed, and then forwarded them from Shanghai on the 18th of September, by the expectant intendant, Sun Sz'tah, and another deputy, to be thoroughly sifted and collated at Peking.

In respect to the various points touched upon in the decree which I have now received, I humbly beg to suggest that in all our intercourse with foreign nations the most important things to be regarded are *good faith* and what is *right*, and perhaps even above these should be placed *decision*. Those things which we cannot yield should, from first to last, be firmly declared, and not retracted under any circumstances; but those privileges which we can liberally yield might be made known to them in direct and plain terms. Let our words be maintained when once spoken, and let no alternate concession and refusal be exhibited, which by its aspect of indecision and weakness will only open the door for the wily propositions and arguments of the other party.

It may be said in general that, during many centuries past, the inhabitants in western lands have been striving to encroach on each other's kingdoms; and in every case one has tried to possess itself of the profits of the other's trade, as a preliminary to getting hold of its territory. They have established places of business throughout China, and trafficked or become carriers in all kinds of produce, simply that they may carry out their unscrupulous schemes of injury, which will end in depriving our merchants of their means of livelihood.

Since the time when we raised troops against them, our people have long suffered every grievous calamity. If we now open three or five more ports to their trade, and the entire length of the Yangtsze river, it will daily add to the distress and indigence of our poor people, who, alas! are now nearly quite driven to the wall.

If we listen to the proposal of the foreigners to open the trade in salt, our own trade in and transportation of the article will presently be brought to naught. If we consent to their scheme of building warehouses, [in the country,] the occupation of those who now keep the inns and depots will likewise suffer. Their demand to have their small steamers allowed access to our rivers will involve the ruin of our large and small boats, and the beggary of sailors and supercargoes. So, also, if we allow them to construct rail-

a copy of my circular letter to the American consuls explaining them, to all of which I respectfully invite your attention. These eight rules are the result of several years' efforts to adjust the workings of a very difficult part of our international obligations with due regard to the entire independence of each party. The experience of three years at Shanghai had shown the Chinese authorities how advantageously the three rules (Nos. 2, 3, and 4) relating to confiscation had worked, and they were thus prepared with more confidence to add similar ones relating to fines and disputed duties.

I have no doubt myself that the code will ultimately commend itself for approval to all nations who have treaties with China, and pass into the catalogue, not yet very long, of established rules of procedure for conducting international affairs with this empire. Such a series of rules as this could never have been established under the old régime; they are the result of the constant discussion of principles and their practice, which is going on in Peking to the gradual enlightenment of the minds of its rulers. I beg to refer you to Mr. Burlingame's dispatch No. 82, of June 6, 1864, for remarks connected with the experimental adoption of these rules, under which I am told that hitherto not a single case has come before any consul. One great preventive is the publicity attending such cases, and the exposure of the circumstances which led the custom-house officers to seize goods or ship.

The adoption of these important rules by this government shows the desire of its leading statesmen to go on and develop the principles contained in the treaties as fast as they can see their way clear to do so practically. In making these changes it is an advantage to them that they can examine the results of certain principles of government in other lands, and choose what they deem to be best without going through the same crucible of trial as Occidentals. These rules, for example, contain principles whose equitable adjustment would have baffled them completely, even if they had been disposed to adopt them; but, guided by experience acquired elsewhere, the rights of each nation have been easily guarded, and the Chinese themselves admit that no infringement of their rights has been urged upon them.

In the vast consequences connected with the elevation of so great a mass of people to the position of a civilized nation, the problems in social and political life which have already been worked out elsewhere, or are now developing, can be advantageously studied by this people, and their practical adoption cannot be long deferred. This power of comparison and choice carries with it immense advantages.

In all the discussions connected with the adoption of these rules, I have been in constant intercourse and accord with Sir R. Alcock, K. C. B., the British minister, and with Mr. Hart, the inspector general.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Prince Kung to Mr. Williams.*

[Translation.]

TUNGCHI, *6th year, 12th moon, 13th day,*
*(January 7, 1868.)*

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

In a dispatch formerly received from Sir Frederick Bruce, the British minister, he

proposed a modification of the regulations respecting the confiscation of vessels and goods; and that in cases where the treaty gave the Chinese authorities the right to impose fines, the circumstances of each case that arose should be examined previously to its being carried into effect.

On receiving his dispatch the Foreign Office, in consultation with the inspector general, Mr. Hart, drew up four rules, which were transmitted to the customs officers at Shanghai, to be tried at that port for a twelvemonth. If at the end of that period they were found not to interfere with the rights of the Chinese government in levying fines, they could then be extended to all the ports for general observance. This arrangement was made known to Mr. Burlingame in August, 1864.

From this it appears that when the rules for this joint tribunal (in respect to confiscation and fines) were proposed to him, it was understood that after they had been tested at Shanghai for a year they should be extended to all the ports as the rule to be observed in such cases; and as they have now been fully tried there, it is desirable and proper to put them into operation at all other ports, and if at the expiration of another year no difficulties arise in their operation, further consultation can be then held as to the manner of making them generally observed. The Foreign Office has therefore directed the two superintendents of commerce for the northern and southern ports to enjoin their observance on the customs officers at all the ports; and I also now inform your excellency of this action, with the request that you would direct the United States consuls to infrom all American merchants that these rules are to go into operation for the term of one year at all the open ports, dating from the 25th of this month.

I should be pleased to receive an answer respecting the details of the arrangement at your early convenience.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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B.

*Prince Kung to Mr. Williams.*

[Translation.]

TUNGCHI, *6th year, 12th moon, 13th day,*
*(January 7, 1868.)*

Prince Kung, chief secretary for foreign affairs, herewith makes a communication respecting the mode of action in cases of confiscation by the customs, according to the rules already jointly agreed upon (August 12, 1864) and now in operation at each port:

It appears by these that whenever the intendant, or collector of the port, and the consul differ in their decision, rule IV provides that the merchant shall give a bond for a certain sum to pay the duty, and that when the goods on board ship shall be delivered to him, when the superior officers have examined into the case and decided whether the goods are to released or the penalty forfeited, the case is then to be referred back and acted on. In this way it was expected that neither the duties would be lessened nor the facilities of trade be impeded.

But in the collection of duties by the customs, there have arisen many doubtful points growing out of the discrepancies existing between the meaning of the Chinese and foreign texts of the regulations, and also of the great variety of articles of commerce, some coarse and others fine, which are continually brought into the country, and which cannot be easily compared with those previously brought and reduced to a uniform standard. In these cases it is constantly happening that while the collector thinks the article ought to pay a duty, the consul thinks it ought to come in free, and it is almost impossible to prevent their arguing and disagreeing thereon. The collector at a port, being only a subordinate official himself, cannot presume to violate the regulations which are given him, and therefore feels himself obliged to levy the duty, at least until both of them have referred the matter to their superiors and received a decision to be followed by each. But when this reference has been made, if the superior officers decide that duty need not be levied on the article, then the merchant every time asks for compensation, and to be reimbursed for both cost and profit on the articles. Thus it happens that the collector, in his endeavors to act right according to the rules, involves himself in loss and injury, and nobody is benefited.

Seeing, therefore, that difficulties occur on both hands, the Foreign Office have, after much careful deliberation, come to the following decision:

Whenever, in the collection of duties, it happens that the collector and consul cannot agree as to whether an article is dutiable or free, they shall act in accordance with the provisions of rule IV of the confiscation rules; but meanwhile they shall require a bond from the merchant for the estimated cost of the goods, pledging himself to comply with the decision and clear his bond, to which the consul shall affix his seal and then deposit

the bond in the hands of the collector, who shall meanwhile release the goods to their owners without receiving any duty, and the case has immediately to be fully reported by both parties to their superiors for decision. If it be decided by them that the article is not dutiable, then the collector shall transmit the bond in his hands to the consul to be nullified, without any further discussion or excuse. But if the decision be that it ought to pay duty, then the consul shall require the merchant who owns the goods to pay the duty and clear them at the customs. By this course of procedure, though the duty would be collected a little later in case it was decided that the article was dutiable, still the incomes of the customs would not suffer any loss; while, if it was decided otherwise, the merchant would not have been kept out of the use of his money; and thus the interests of trade would on both hands be materially benefited and accommodated.

This proposal is therefore now made known to your excellency, with the request that you will inform the United States consuls at the various ports that this mode of procedure in cases of dispute about duty has in future the force of law at each port, and enjoins upon them its observance, making known to me, however, your action upon the matter.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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C.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, February* 17, 1868.

SIR: I have the honor to acknowledge the receipt of two dispatches from your Imperial Highness of the 7th ultimo, both relating to proceedings in cases of confiscation by the customs.

One of them contains a draught of a regulation defining the mode of procedure to be followed in cases of fines whenever the consul and collector of customs cannot agree in their decision, proposing that then the merchant should give a bond, sealed with the consular seal, which is to be deposited with the collector, and that his goods or vessel should then be released to him until the appeal to the higher authorities at Peking has been made; when if they decided that no fine was to be paid, the collector should return the bond: concluding with the request that this regulation should be made known to the American merchants for their observance at each port.

The other dispatch contained a second request that the four rules for joint action in confiscation cases, which have been in operation at Shanghai for a year, should now be extended to all the open ports for trial another year, and asking that a reply be given whether the necessary orders had been given to this end. In respect to the subject-matter of these two dispatches, it appears to me that the proposed rule merely requiring a merchant to give a bond to pay the amount of the fine, and then releasing his vessel or goods, is like to be very advantageous to him, while it will not work any detriment to the customs revenue; and I have therefore no objection to enjoin it upon the United States consuls as a rule to be observed. But in the operation of the other four rules I have heard during the past few years that there has occasionally been some differences of opinion between the consuls of the United States and the commissioners of customs at the ports, upon points of etiquette and rank, making it desirable that an additional rule regulating the standing of these two classes of officials be established, and providing that the intercourse between them be conducted in a harmonious manner and to the furtherance of the public business.

In the dispatch under reply, your Imperial Highness requests a reply stating my action as to enjoining the observance of the four former rules agreed upon in the year 1865 by the merchants at the other ports. I beg to observe respecting them, that they refer only to cases of confiscation of vessels and merchandise, stipulating that whenever a vessel or merchandise has been seized, before the confiscation can be carried into effect the case must be examined by the consul; and if he and the collector disagree, the merchant must give a bond to the latter to await the decision of the superior authorities, and meanwhile his property need not be detained. It seems desirable, in addition to this, that another rule should be prepared giving directions in cases of fines, and the mode of procedure when the consul and commissioner do not agree as to the amount of the fine. In such cases it will be convenient if the merchant can also be allowed to give a bond for the amount, in order to release his property from detention and not lose its use. It must constantly be borne in mind that the power to levy fines upon American citizens belongs alone to the United States consuls; and that when the case has been tried, and the money paid to him, he then will pay it to the collector of customs.

This mode of procedure in cases of fine for breach of regulations being similar to that in cases of confiscation, no impediment or hinderance is likely to arise in carrying it into effect. I have therefore prepared a draught of three additional rules, which I inclose for the examination of your Imperial Highness, and on receiving a reply I will inform the consuls at all the ports of the seven regulations which are to be observed as rules of procedure in cases of confiscation and fines by the customs.

I avail myself of this occasion to renew the assurance of the respect with which I am your Imperial Highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG.

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D.

*Prince Kung to Mr. Williams.*

[Translation.]

TUNGCHI, *7th year intercalary, 4th moon, 8th day,*
*(May* 29, 1868.)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

In the month of February last your excellency and the British minister together proposed three more rules to the four which had been adopted in October, 1865, for joint investigation in cases of confiscation, and requested that the whole seven might be experimentally put in force at all the ports.

On receiving this proposal the Foreign Office took the matter into their most careful deliberation in all its bearings. The four former rules were found to require no alteration, but the three new ones have been somewhat modified to make them entirely satisfactory, and a new one has been added. They were all submitted to the inspection of the British minister in March last, who replied that, after adopting a few alterations in rule VI, he was willing to accept the whole eight as a body of rules for investigating cases of confiscation, and would direct them to be tried at the ports. The French minister also assented in the same sense.

Exact copies of these eight rules, thus amended, are now, therefore, sent to the foreign ministers at Peking; and orders have likewise been transmitted to the two superintendents of trade for the northern and southern ports, and to the inspector general of customs, enjoining their observance of them. With the inclosed copy now sent to your excellency I have to request that you will direct them to be observed by the various consuls of the United States in China.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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E.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, June* 12, 1868.

SIR: I have the honor to acknowledge your Imperial Highness's dispatch of the 29th ultimo, containing the eight rules for the joint investigation of cases of confiscation and fines, of which four are identical with the old ones, three are nearly the same as those proposed last February, and a new one, the eighth, has been added. A few sentences in the sixth have also been altered, at the suggestion of the British minister, and a copy of the whole is now sent for my inspection. I have accordingly examined them with the greatest carefulness, and deem them to be well calculated to promote the object in view. I also agree to the eighth rule, wherein it is provided that the custom-house authorities shall have the power, if they please to do so, of purchasing the goods or vessel at the price stated by the merchant himself before the case has been decided, and foreclosing his right to redeem them afterwards.

I have given directions to the consuls at the ports to give these rules a trial, and I entertain the strongest hopes that all cases of fine or confiscation arising hereafter between the custom-house authorities and the American merchants will be settled in an equitable manner. The general effect of these rules will certainly be to smooth the way in conducting such cases, and to indirectly strengthen the amicable relations existing between our respective countries.

I have the honor to be, sir, your Imperial Highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG,
*Chief Secretary of State for Foreign Affairs.*

F.

*Mr. Williams to United States Consuls.*

LEGATION OF THE UNITED STATES,
*Peking, June 8, 1868.*

SIR: I herewith send you a copy, in English and Chinese, of the eight rules which have been agreed upon with the Chinese government to be followed in adjudicating cases of confiscation, and for violating the revenue laws of China by American citizens. Four of them have been in operation at Shanghai since 1864, where they have been found to promote the satisfactory adjustment of such disputes, and no material alteration is made in them. Four others (Rules I, VI, VII, and VIII) have been added, relating to the official position of the foreign commissioner of customs, to the mode of procedure in settling cases of fines, and in disputes respecting duties leviable on goods, and the purchase of vessels or goods arrested by the custom-house officers. These are now all made alike applicable to all the ports, and it is at present agreed that they shall be regarded as experimental, and be open to alteration at the end of one year, if good cause be shown for modification. I wish, therefore, that you would report to this legation every case which comes under your cognizance connected with any of these rules, in order to furnish such facts and well-considered opinions as can guide those who may be called on to alter them. I hope, however, that they will be found to work well, and prove to be the commencement of a system of joint tribunals on other cases. To my mind they exhibit an encouraging advance on the part of the Chinese government to assimilate their legal action to the rules adopted in western lands, and to acknowledge an equality of powers, interests, and aims between their own and other officials that has not hitherto been so distinctly marked. The results during a series of years can hardly fail to be instructive, and these rules may serve as a guide and precedent in adjusting disputes on other points, and suggest measures worthy to be adopted in other departments of territorial jurisprudence.

Among the chief objects aimed at in drawing up these rules, four deserve to be specified. One is the acknowledgment in rule I of the official standing of the foreign commissioners of customs, who heretofore, while exercising control in the details of their administration, has been more or less ignored by the consuls because of this non-recognition, and this has sometimes led to untoward results and antagonism.

Growing out of this is the indication of the equality of the native and foreign authorities when brought together on the same tribunal. It has been arranged by requiring that cases of confiscation (the power of doing which has been by treaty yielded to the Chinese) shall be investigated and decided at the custom-house, while cases of fining an American citizen for breaches of revenue laws shall be tried at the consulate; in both cases the officers of both nationalities sitting together on the bench.

Another is the refusal to grant an appeal to Peking when these officers agree upon the sentence, inasmuch as they must generally be better acquainted with the details of a case than referees can be, and better fitted for settling it on the spot, if the facts are known and the law clear.

The fourth point is that of allowing a merchant to file a bond in the consular court, for deposit in the superintendent's hands, whereby he will be able to release his vessel or goods at once, and avoid the vexatious delays and inevitable losses which have hitherto been experienced in such cases as these rules cover. I have, however, to urge upon you the need of great carefulness in accepting these bonds, and see that the security be ample for their punctual fulfillment on the part of the merchant. In case of non-payment, the remedy would be difficult and the reproach to our national reputation not slight, seeing that the consul is regarded as the principal warrantor of its adequacy, and officializes it with his seal.

It is my impression that the feeling which was not uncommon 10 years ago, when the foreign inspectorate of customs was established, that its *personnel* had lowered themselves by entering it, and that disputes relating to the execution of the Chinese revenue laws were not discreditable, has gradually given place to a juster view on the part of the community to the benefit to be derived from an equitable administration of these laws. These eight rules will, it is to be hoped, not only tend to remove this feeling entirely, but to elevate the whole character of the revenue department.

If the Chinese government is ever to become able wisely to utilize the knowledge, integrity, and capacity of foreigners in carrying out reforms in its internal administration, their effective usefulness must depend somewhat on their status among their own countrymen. I need hardly add in conclusion, however, that I fully expect that you will, on your part, do whatever is right in carrying out these rules in the most harmonious and equitable manner.

I am, sir, respectfully, your obedient servant,

S. WELLS WILLIAMS.

*Rules for joint investigation in cases of confiscation and fine by the custom-house authorities.*

RULE 1. It shall be the rule for all business connected with the custom-house department to be in the first instance transacted between the commissioner of customs and the consul, personally, or by letter, and procedure in deciding cases shall be taken in accordance with the following regulations:

RULE 2. Whenever a ship, or goods, belonging to a foreign merchant is seized in a port of China by the custom-house officers, the seizure shall be reported without delay to the Kien-tuh, or Chinese superintendent of customs. If he consider the seizure justifiable he will depute the Shwuiwu-sze, or foreign commissioner of customs, to give notice to the party to whom the ship or goods are declared to belong that they have been seized because such or such an irregularity has been committed, and that they will be confiscated unless before noon on a certain day, being the sixth day from the delivery of the notice, the custom-house authorities receive from the consul an official application to have the case fully investigated. The merchant to whom the ship or goods belong, if prepared to maintain that the alleged irregularity has not been committed, is free to appeal, within the limited time, directly to the commissioner, who is to inform the superintendent. If satisfied with his explanations, the superintendent will direct the release of the ship or goods; otherwise, if the merchant elect not to appeal to the customs, or if, after receiving his explanations, the superintendent still decline to release the ship or goods, he may appeal to his consul, who will inform the superintendent of the particulars of this appeal, and request him to name a day for them both to investigate and try the case publicly.

RULE 3. The superintendent, on receipt of the consul's communication, will name a day for meeting at the custom-house, and the consul will direct the merchant to appear with his witness there on the day named, and will himself on that day proceed to the custom-house. The superintendent will invite the consul to take his seat with him on he bench. The commissioner of customs will also be seated, to assist the superintendent.

Proceedings will be opened by the superintendent, who will call on the customs employés who seized the ship or goods to state the circumstances which occasioned the seizure, and will question them as to their evidence. Whatever the merchant may have to advance in contradiction of their evidence he will state to the consul, who will cross-examine them for him. Such will be the proceedings in the interest of truth and equity. The consul and superintendent may, if they see fit, appoint deputies to meet at the custom-house in their stead, in which case the order of proceeding will be the same as if they were present in person.

RULE 4. Notes will be taken of the statements of all parties examined, a copy of which will be signed and sealed by the consul and superintendent. The room will then be cleared, and the superintendent will inform the consul of the course he proposes to pursue. If he proposes to confiscate the vessel or goods, and the consul dissents, the merchant may appeal; and the consul having given notice of the appeal to the superintendent, they will forward certified copies of the above notes to Peking, the former to his minister, and the latter to the Foreign Office, for their decision.

If the consul agrees with the superintendent that the ship or goods ought to be confiscated, the merchant will not have the right of appeal; and in no case will the release of ships or goods entitle him to claim indemnity for their seizure, whether they be released after the investigation at the custom-house, or after the appeal to the high authorities of both nations at Peking.

RULE 5. The case having been referred to superior authority, the merchant interested shall be at liberty to give a bond, binding himself to pay the full value of the ship or goods attached should the ultimate decision be against him, which bond, being sealed with the consular seal and deposited at the custom-house, the superintendent will restore to the merchant the ship or goods attached; and when the superior authorities shall have decided whether so much money is to be paid, or the whole of the property seized be confiscated, the merchant will be called on to pay accordingly. If he decline to give the necessary security, the ship or merchandise attached will be detained. But whether the decision of the superior authorities be favorable or not, the appellant will not be allowed to claim indemnity.

RULE 6. When the act of which a merchant at any port is accused is not one involving the confiscation of ship or cargo, but is one which by treaty or regulation is punishable by fine, the commissioner will report the case to the superintendent and at the same time cause a plaint to be entered in the consular court. The consul will fix the day of the trial, and inform the commissioner that he may then appear with the evidence and the witnesses in the case. And the commissioner, either personally or by deputy, shall take his seat on the bench and conduct the case on behalf of the prosecution.

When the treaty or regulations affix a specific fine for the offense, the consul shall, on conviction, give judgment for that amount, the power of mitigating the sentence rest-

ing with the superintendent and commissioner. If the defendant is acquitted, and the commissioner does not demur to the decision, the ships or goods, if any be under seizure, shall at once be released, and the circumstances of the case be communicated to the superintendent. The merchant shall not be put to any expense by delay, but he shall have no claim for compensation on account of hinderance in his business, for loss of interest, or for demurrage. If a difference of opinion exists between the consul and commissioner, notice to that effect shall be given to the superintendent, and copies of the whole proceedings forwarded to Peking for the consideration of their respective high authorities.

Pending their decision, the owners of the property must file a bond in the consular court to the full value of the proposed fine, which will be sent to the custom-house authorities by the consul, and the goods or ship will be released.

RULE 7. If the custom-house authorities and consul cannot agree as to whether certain duties are leviable or not, action must be taken as rule 5 directs, and the merchant must sign a bond for the value of the duties in question. The consul will affix his seal to this document, and send it to the custom-house authorities, when the superintendent will release the goods without receiving the duty, and these two functionaries will respectively send statements of the case to Peking, one to his minister, the other to the Foreign Office.

If it shall be decided there that no duty shall be levied, the custom-house authorities will return the merchant's bond to the consul to be canceled; but if it be decided that a certain amount of duty is leviable, the consul shall require the merchant to pay it in at the custom-house.

RULE 8. If the consul and the custom-house authorities cannot agree as to whether confiscation of a ship, or a cargo, or both of them together, being the property of a foreign merchant, shall take place, the case must be referred to Peking for the decision of the Foreign Office and the minister of his nation. Pending their decision, the merchants must, in accordance with rule 5, sign a bond for the amount, to which the consul will affix his seal, and send it for deposit at the custom-house. As difference of opinion as to the value [of ship or goods] may arise, the valuation of the merchant will be decisive; and the custom-house authorities may, if they see fit, take over either at the price aforesaid. If, after such purchase, it be decided that the property seized ought to be confiscated, the merchant must redeem his bond by paying in at the custom-house the original amount of the purchase money. If the decision be against confiscation, the bond will be returned to the consul for transmission to the merchant, and the case then be closed. The sum paid by the custom-house authorities for a ship or goods being regarded as their proper price, it will not be in the merchant's power by a tender of the purchase money to recover them.

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*Mr. Browne to Mr. Seward.*

SAN FRANCISCO, CALIFORNIA, *July* 24, 1868.

SIR: I have the honor to transmit herewith a copy of a letter from Mr. George Wilkes, director of the Lower California Company, in relation to the proposed colonization, by Chinese, of the company's grants in Sonora and Lower California.

A copy of my reply is also inclosed.

Very respectfully, your obedient servant,

J. ROSS BROWNE.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Wilkes to Mr. Browne.*

NEW YORK, *June* 7, 1868.

SIR: The Lower California Company holding, as you are aware, a grant from the Mexican government which entitles them to take up and to colonize the lands of Lower California, and operating under a charter from the State of New York for the establishment of steamer lines, &c., have recently made arrangements for the carrying out of the purposes of said grant by colonizing Chinese upon the coasts and within the interior of Lower California, and upon tracts of land in Sonora, the title to which has also been acquired by the company.

The grant held by the company is, as you will perceive by the copy herewith sent, of a most liberal character. It covers the whole bulk of the peninsula, (or 46,800 square miles;) it confers *quasi* governmental powers similar to those enjoyed by the Hudson Bay and East India Companies; and it guarantees to all the company's colonists, without regard to race or color, all the political and religious rights inuring to Mexican citizens, as soon as such colonists shall establish themselves upon Mexican soil, under the authority of the company.

By the 9th section of the grant you will observe that the liberty of religious worship is especially guaranteed to the colonists. By the 10th section, they are empowered to establish municipalities, elect their own authorities, levy local taxes, and perform all other acts pertaining to such political organization upon simply giving information of their intentions to the political chief of the territory, and by subscribing to his general authority. By the 12th section, all wearing apparel, iron tools, provisions, and things necessary to preserve life, are exempted from duty for *ten years*. By the 13th section, the colonists are in like manner exempted from all classes of imports and taxes "except the municipal contributions" which they may themselves establish; and by the 14th section, they are exempted from service in the national army for *five years*.

These franchises were all that were desired by the company to enable them to establish such colonies as would develop the fishing, mining, and agricultural resources of Lower California to their utmost. And here it is not out of place to say that, in addition to these franchises and guarantees from the Mexican general government, we have recently received the cordial written assurances of the political chief of Lower California that he will be happy to promote and to assist in carrying out the liberal purposes of the company. Thus fully empowered and assured, the company have on their part empowered, by letters patent, bearing the seal of the company, the Hon. Charles D. Poston, commissioner of agriculture from the United States to China, to contract in the name of the company with any persons or public officers in China, and if need be with the government of China, for 10,000 or more of Chinese colonists, to be landed upon the coast of Lower California, and to convey to said colonists such lands as they may require to be conveyed to them in alternate plots or sections anywhere in said territory they may select, or upon any of the company's lands in Sonora, all of said land to be conferred upon said colonists at the same rate (with but a fraction added, to cover the expenses incident upon location) as is paid by the company for the same to Mexico.

The company for their guarantee, in addition to this virtual gift of the land on their part, all the fishing, mining, and agricultural privileges, including the privilege of the pearl fishery, and all the political and religious rights which inure under their grant and charter to their most favored colonists.

The honorable commissioner of agriculture aforesaid will soon sail for China, and the company having thus empowered him, feel it to be due to your excellency's position to lay their purposes before you, in order that you may be fully apprised of their intentions in case their transactions in China should be brought under your official cognizance, or their character and purposes, as a company of American citizens, be brought under like observation.

In this connection, the undersigned begs leave to add that he has laid the grant and character of the company, and likewise the purposes of the company in regard to Chinese colonization, before the honorable Anson Burlingame, minister plenipotentiary and extraordinary from the Emperor of China, and has the gratification to state that Mr. Burlingame, recognizing the programme of the company as broad and liberal, and as one that will not only knock the detestable Coolie system in the head, but give to the Chinese people their first opportunity to compete with the European races in the problem of self-government, upon equal terms, expressed for the programme of the company his cordial approbation.

Hoping that you also may perceive in the proposed colonization of industrious and intelligent Asiatics upon the American Pacific coast an equal advantage to the United States, the creation of new and contiguous markets for our products,

I have the honor to be, and remain very respectfully, your obedient servant,

GEO. WILKES,
*Director, &c., Lower Cal. Co.*

His Excellency J. ROSS BROWNE,
*Minister, &c., &c., &c.*

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*Mr. Browne to Mr. Wilkes.*

STEAMER HENRY CHAUNCEY,
*Near Aspinwall, June* 16, 1868.

SIR: On the eve of my departure from New York I had the honor to receive your letter of the 7th instant, informing me of the intention of your company to send an agent to China for the purpose of encouraging the colonization by Chinese immigrants

of certain lands granted to you on the peninsula of Lower California, by the Mexican government.

There can be no doubt as to the adaptability of the Chinese to colonization. Experience in California and the adjacent States and Territories shows that they are orderly, industrious, and self-reliant. It is evident, from their ingenuity and habits of economy, and the success with which they have worked abandoned mines and lands, that they are capable of maintaining themselves in countries unfitted for settlement by Americans or Europeans. Nor can there be any question as to the beneficial results to be derived from a liberal policy in opening unoccupied and hitherto unproductive tracts of country to cultivation and development by a thrifty and orderly population, of whatsoever race, provided their social and religious systems are not inimical to the well-being of the nations or peoples by whom they may be surrounded.

The experiment, at all events, would not be altogether novel, since the experience we have had of the Chinese in California. Whilst there are antagonistic views as to the introduction of Chinese labor on the Pacific coast, none can deny that this class of population has proved itself worthy of respect and consideration.

I am deeply impressed with the importance of the questions presented in your letter, and will avail myself of the earliest opportunity to give them the consideration to which they are entitled. At present I can only say in general terms, that I have always advocated a liberal course toward the Chinese who have already immigrated to that portion of the Pacific coast embraced within our own domain.

What special duties may be imposed upon me by my official position I cannot now of course foresee. Should the questions discussed in your letter be brought before me while in China, for official action, I shall endeavor to meet them in such manner as to promote the best interests of our country.

Thanking you for the information with which you have furnished me, I have the honor to be, very respectfully, your obedient servant,

J. ROSS BROWNE,
*United States Minister to China.*

GEORGE WILKES, Esq.,
*Director of the Lower California Company.*

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## *Mr. Browne to Mr. Seward.*

SAN FRANCISCO, CAL., *July* 24, 1868.

SIR: I have the honor to transmit herewith an interesting communication from Mr. Daniel Cleveland, a citizen of San Francisco, addressed to me in answer to a note, a copy of which is inclosed, in relation to Chinese labor on this coast and its effect upon the development of our resources.

The statistics furnished by Mr. Cleveland are valuable, and his views are entitled to respect. It affords me pleasure to state that similiar views are now very generally entertained by intelligent classes on the Pacific coast.

Very respectfully, your obedient servant,

J. ROSS BROWNE.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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### *Mr. Browne to Mr. Cleveland.*

SAN FRANCISCO, *July* 21, 1868.

DEAR SIR: I understand that you have been for some time past engaged in the preparation of a work on the Chinese in California, in which you propose to give a sketch of their immigration to this coast; their trades and occupations; the amount of taxes paid by them to the federal and State governments; their present condition; their influences upon the development of our resources; and the injurious effects of any legislation having in view their exclusion from our shores.

It is peculiarly important at the present time that our experience of this interesting people should be correctly understood.

You have devoted much labor, as I can well appreciate from a perusal of your notes,

to the collection of reliable statistics on this important subject; and I know of no citizen of California better qualified to treat it with candor and intelligence.

If not inconsistent with the plan or purposes of your work, I would be greatly obliged to you for a summary of the data embodied in your notes, for transmission to the Department of State at Washington.

The purposes of my mission to China would be facilitated, and the humane and generous ends which you have in view might to some extent be promoted, by a more thorough knowledge on my part of the history and condition of our Asiatic population in California.

Wishing you success in your undertaking, I have the honor to be, very respectfully, your obedient servant,

J. ROSS BROWNE,
*United States Minister to China.*

DANIEL CLEVELAND, Esq.

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*Mr. Cleveland to Mr. Brown.*

SAN FRANCISCO, *July* 27, 1868.

DEAR SIR: I have received your letter of the 21st instant, requesting information about the Chinese in California, and have the honor to submit the following statement, which, from the shortness of the time given me for its preparation, and my other duties, is necessarily brief and general, but, I hope, embodies the information you desire.

The Chinese constitute a large and important element in our society. They have so intimately interwoven themselves in our life and business, they fill so many employments, their occupations are so numerous, they serve us in so many capacities, they contribute so much to the revenue of our city, county, and State governments, in addition to the large sums paid to the federal government for import duties, special and other taxes, that public men now regard them as a valuable part of our permanent population. Their sudden removal would cause a great and lasting injury to our State. It would paralyze many branches of industry, by depriving them of the cheap labor by which they are sustained. It would cause a diminution in our State revenue of at least one-fourth, and would be regarded as an inconvenience by almost every citizen. Our commerce, our public carriers by land and water, our merchants and mechanics, and, in fact, all who have anything to sell, whether it be merchandise or labor, would suffer by the expulsion of a large population that does much to sustain them.

The first Chinese immigrants to this State were two men and one woman, who arrived in the fall of 1848. Three hundred and twenty-three arrived in 1849, and 447 in 1850. The Chinese are timid, and fearful of engaging in any new enterprise until a few of the more adventurous of their countrymen have proved it, by their experience, to be both safe and profitable. This accounts for the meagerness of their early emigration. So soon as they were fully satisfied, by many letters and frequent intercourse with their returned countrymen who had been successful, they began to come in much larger numbers. During the year 1851, 261 Chinese who had succeeded in this State, having acquired what seemed to them a fortune, in the mines, and as washermen and laborers, returned to their own country. The glowing accounts they gave of the mineral wealth of California, the demand for labor, and its generous compensation, when confirmed by their own success, produced a great effect upon their countrymen, and created a feverish excitement in their own province, that of Canton, which resulted in something like the gold fever that raged among our own people, and led to the same results, unprecedented emigration to the land of promise. Eighteen thousand four hundred and thirty-four arrived during the year 1852, nearly three times as many as in any subsequent year, except 1854, and almost equal to the number for the past five years. Immigration then fell to 3,212 in 1855, and has never been very great since, the highest number being 7,620 in 1860, and the lowest 2,351 in 1866, the average for the 13 years ending December 31, 1867, being 4,773.

The following table exhibits the immigration from, and the emigration to, China to the 1st of July, A. D. 1868, according to the records of the custom-house at San Francisco:

*Immigration from, and emigration to, China to the 1st of July, 1868.*

| Year. | Immigration. | | | Emigration. | | Remaining. |
|---|---|---|---|---|---|---|
| | Males. | Females. | Total. | Total. | Excess over immigration. | Excess of immigration. |
| 1848 | 2 | 1 | 3 | ..... | ..... | 3 |
| 1849 | 323 | ..... | 323 | ..... | ..... | 323 |
| 1850 | 447 | ..... | 447 | ..... | ..... | 447 |
| 1851 | 2,716 | ..... | 2,716 | 261 | ..... | 2,455 |
| 1852 | 18,384 | 50 | 18,434 | 2,056 | ..... | 16,378 |
| 1853 | 3,917 | 399 | 4,316 | 4,405 | 89 | ..... |
| 1854 | 14,450 | 513 | 15,063 | 2,386 | ..... | 12,677 |
| 1855 | 3,188 | 24 | 3,212 | 3,328 | 116 | ..... |
| 1856* | 4,935 | 95 | 5,030 | 2,675 | ..... | 2,355 |
| 1857* | 5,383 | 423 | 5,806 | 2,675 | ..... | 3,131 |
| 1858* | 5,358 | 323 | 5,681 | 2,675 | ..... | 3,006 |
| 1859 | 3,100 | 427 | 3,527 | 2,907 | ..... | 620 |
| 1860 | 7,312 | 308 | 7,620 | 2,079 | ..... | 5,441 |
| 1861 | 5,997 | 510 | 6,507 | 2,151 | ..... | 4,356 |
| 1862 | 5,583 | 442 | 6,025 | 3,001 | ..... | 3,024 |
| 1863 | 7,149 | 32 | 7,181 | 2,510 | ..... | 4,671 |
| 1864 | 2,756 | 175 | 2,931 | 3,086 | 157 | ..... |
| 1865 | 2,375 | ..... | 2,375 | 1,945 | ..... | 430 |
| 1866 | 2,350 | 1 | 2,351 | 3,015 | 664 | ..... |
| 1867 | 3,779 | 27 | 3,806 | 4,167 | 361 | ..... |
| 1868, (to July 1) | 5,101 | 16 | 5,117 | 565 | ..... | 4,552 |
| Total | 104,705 | 3,766 | 108,471 | 45,887 | 1,387 | 63,956 |

* As I could not obtain any record of the emigration for these years from the custom-house, I have taken the average of the two years before and two after it, and think it must be very near the true number.

An examination of this table will show several interesting and important facts. During five years the emigration exceeded the immigration, and among these years are the two last. This, taken in connection with the really moderate immigration, the great number who have returned to China, and who are constantly doing so, and the fact that all Chinese hope and expect to spend their last days in the "flowery kingdom," ought to be sufficient to dispel the fears of some of our public men, who, in our legislature and elsewhere, have expressed their apprehension that the 400,000,000 inhabitants of the Chinese empire were about to be poured into our State. The great fluctuations in the immigration, the number for one year being from two to four times as great as for the next, have been owing to the action of our people and government in reference to the Chinese population. Thus, on the 23d of April, 1852, Governor Bigler sent a special message to the legislature against the Chinese, and asking for legislation to put a stop to their coming. This, with the great hostility it created towards them in this State, was reported to China, but not soon enough to affect immigration for that year. During the next year, 1853, immigration suddenly fell from the 18,434 of the preceding year, to 4,316, so that at the end of the year the State had, with the deaths, about 400 less Chinese population than at its commencement. This feverish hostility abated, and we see the result in the figures for the next year, 1854, when 15,063 arrived, and only 2,387 went back to China. Early in 1855 a law was passed imposing an immigration tax of $50 upon Chinese, and increasing their mining tax, and the people were excited to great bitterness, and acts of hostility were committed against them which resulted in loss of life and property. When these facts were reported to China, the tide of immigration was suddenly arrested, and the number who came, mostly in the early part of the year, was only 3,212 against the 15,000 of the preceding year, and the emigration to China was 3,328. The members of the legislature soon saw their error and repealed one of the obnoxious laws, while the other was declared unconstitutional. The consequences were seen the next year in increased immigration and diminished emigration. In 1858 a law was passed by our legislature prohibiting the immigration of Chinese into this State, and the immigration fell the next year from 5,681 in 1858 to 3,527. The law was declared unconstitutional by our courts, and immigration increased to 7,620 in 1860. I think I have stated sufficient facts to show how the immigration of

the Chinese to our State has been affected by hostile legislation. The rapid increase in immigration during the first two quarters of the present year is owing to the demand for laborers upon the Pacific railroad, and the development of the mineral resources of Montana, Idaho, and Nevada.

A brief review of the legislation of this State in relation to the Chinese may not be uninteresting. The Chinese have been principally wronged and discriminated against in three ways: first, by imposing upon them a mining tax not collected of others; second, by the prohibition of their testimony against white persons; third, by imposing an immigration tax not collected of others. There have been many other acts and classes of hostility in legislation, by which they have been injured, and attempts have been made to drive them from the State, but I must necessarily confine myself to these mentioned.

At the first session of our legislature, in 1850, a law was passed imposing a tax of $20 per month on all "foreign miners." This was not intended to act specially upon the Chinese, whose numbers here were then inconsiderable, and had not yet excited apprehension. The legislation against the Chinese dates from the 23d of April, 1852, when Governor Bigler sent a special message to the legislature upon the subject of Chinese immigration to this State. He said, "I am deeply impressed with the conviction that in order to preserve the tranquillity of the State, measures must be adopted to check the tide of Asiatic immigration, and prevent the exportation by them of the precious metals, which they dig up from our soil without charge, and without assuming any of the obligations imposed upon our citizens. I allude particularly to the class of Asiatics known as 'coolies,' who are sent here, as I am informed, and as is generally believed, upon contract to work in our mines for a term, and who at the expiration of the term return to their native country.

* * * * * *

"I therefore respectfully submit for your consideration two distinct propositions: 1st. Such an exercise of the taxing power by the State as will check the present system of indiscriminate and unlimited immigration. 2. A demand by the State of California for the prompt interposition of Congress by the passage of an act prohibiting 'coolies' shipped to California under contracts, from laboring in the mines of this State. With the consent of the States, Congress has a clear right to interpose such safeguards as in their wisdom might be deemed necessary. The power to tax, as well as to entirely exclude this class of Asiatic immigrants, it is believed can be constitutionally exercised by the State."

It is not necessary to say anything about the ignorance and misunderstanding of the Chinese, upon which this message was based. It created a profound sensation in the legislature, and throughout the State. Meetings of the people were held in all the mining counties, and resolutions passed prohibiting the Chinese from working in the mines. They were subjected to many outrages—driven from their claims, robbed, and murdered. The message was referred by the legislature to a committee, who divided, making two reports, both against the Chinese, but differing in the measures proposed—one recommending their heavy taxation, and the other their expulsion from the State. The excitement somewhat abated, and no law affecting the Chinese was passed.

Every session of the legislature devoted considerable time to the discussion of the Chinese question, but the first legislative enactment specially directed against them was in 1855, when a law was passed raising their miners' tax from four to six dollars per month, and providing for its increase by two dollars every succeeding year. The consequences of this law and its impolicy were soon manifested. Many of the Chinese miners, unwilling, and others unable, to pay what they regarded as an unjust tax, stopped work. The revenues of the mining counties, which had been largely made up of the miner's license tax, dwindled down to less than one-half. Merchants and mechanics who had relied upon the Chinese for much of their business, suffered serious loss. The Chinese merchants in San Francisco wrote to their correspondents in China not to forward any more goods, and to detain the cargoes in ships about to sail. Many of the Chinese, despairing of justice, returned to their own land, and others were preparing to do so. The people were suddenly undeceived, much of their delusion was dispelled, and they discovered that the despised Chinaman was really an important element in the population. The country press denounced the obnoxious law and demanded its repeal. Their efforts were seconded by public meetings in all parts of the State, and resolutions and memorials calling upon the legislature to repeal the law. It was done at the next session, 1856, and many of the threatened evils averted.

The legislature, at the session of 1855, also passed "an act to discourage the immigration to this State of persons who cannot become citizens thereof." It imposed a tax of $50 on every Chinese passenger who entered this State. The collection of this tax was resisted, and the law was declared unconstitutional by the supreme court of this State, in the case of the People *vs.* Downer, 7th California, p. 169. Thus by her judiciary was this State saved from the consequences of the folly of her legislature. Had the constitutionality of this law been sustained, Chinese immigration to this State would have been arrested and stopped, those already here would have been driven away, and the

large China trade, upon the continuance and growth of which the prosperity of San Francisco so greatly depends, could have been annihilated and driven from us, doubtless to our wiser and more liberal British neighbors at Victoria.

But the legislature would not take warning or learn wisdom from the past. Powerful political combinations were formed to compel the expulsion of the Chinese from this State. Candidates for the legislature were elected upon their pledges of hostility to the Chinese. Some were honest in their efforts to legislate them out of the State; others were pledged to aid such legislation; some did not dare to oppose it; a few were honest enough to request justice for the Chinese, and make futile efforts to obtain it. The Chinese were prohibited from giving testimony in any case where white persons are parties.

The consequences of this law have been the unpunished robbery and murder of the Chinese. Up to the beginning of 1862, 88 Chinese were murdered by white men, 11 by collectors of the foreign miner's tax, and *but two* of the murderers have been convicted and hung. This fact, which is a matter of record, is not creditable to our legislature or courts. The Chinese miners have been robbed of over $1,000,000, almost without any *attempt* to protect them.

In 1858, the legislature of this State passed "an act to prevent the further immigration of Chinese or Mongolians to this State." It made the bringing or landing of any Chinese within this State a misdemeanor, punishable with a fine of from $400 to $600, or imprisonment for not less than three months; or both such fine and imprisonment. Section 2 provides that "the landing of each and every Chinese or Mongolian person or persons shall be deemed a distinct and separate offense, and punished accordingly." This law has been declared unconstitutional, and never enforced.

The legislature of 1860 passed "an act for the protection of fisheries," which requires all Chinese fishermen in this State to pay a monthly license tax of $4. As the constitutionality of this law has not been tested, it is still in force. It is clearly unconstitutional.

The legislature of 1862 passed "an act to protect free white labor against the competition of Chinese labor, and to discourage the immigration of Chinese into the State of California." It imposed a tax upon all Chinese, male and female, except miners, and those engaged exclusively in the cultivation of tea, coffee, sugar, and cotton, of $2 50 per month. This law has also been declared unconstitutional by the supreme court of this State, in the case of Sin Sing *vs.* Washburn, 20 California, p. 534.

All of these laws, including those declared unconstitutional, still remain upon our statute books, and a stranger, unacquainted with the decisions of our courts, but looking only to our *laws*, might well wonder at the injustice and folly of this portion of our legislation. The legislation of our State against the Chinese presents a strange and mortifying contrast to that of the English colonial government of Victoria, on our coast, where they possess rights, and are awarded a protection that is denied them here. In no other civilized nation would the Chinese be debarred from the right of testifying against those who had wronged them in person or property; nowhere else would a large and peaceable industrial population, greatly needed, be persecuted and wronged to drive them away. By no other people would violent and persistent efforts be made to destroy the large and valuable commerce of Asia with its ports, by insulting and injuring, almost beyond endurance, those by whom it has been built up and is maintained.

Having shown the hostility of the legislature of this State towards the Chinese, I think it proper to say a few words about the hostility of *the people*. If the people had been kindly disposed towards the Chinese, our statute books would not be disgraced by unwise, unjust, and unconstitutional enactments against them. Ever since the message of Governor Bigler, in 1852, there has been a strong feeling of antipathy to the Chinese in this city, and throughout the mining counties of this State. Organizations and societies, many of which still exist, have been formed to force their expulsion from the State. I am informed that there are now nearly a dozen such in this city, and from one to six in every mining settlement in the State. As already stated, they have required candidates for public office to pledge themselves to use their efforts to oppose the Chinese. In this way they have exerted a powerful influence upon the legislature and upon public opinion. Miners have repeatedly passed resolutions and notified to Chinese in their neighborhood that they would not be permitted to work in the mines, and have enforced their commands by violence. They have only been allowed to work mines which white men have abandoned as worthless. When they have been fortunate enough to obtain a good claim, it has often been taken from them by white miners without compensation, and if they have resisted they have been robbed and murdered. Bands of white desperadoes have been organized for the express purpose of robbing and killing the Chinese. Over 100 unpunished murders, and over $1,000,000 worth of unrecovered stolen gold dust attest the extent of their depredations and the injustice of our courts. In nearly every large city and settlement in this State, where the Chinese live in considerable numbers, they have been the objects of mob violence, their houses sacked and burned, and their persons subjected to violence. In Sacramento and San Francisco

these outrages have been repeated and sometimes rapidly recurring. Gangs of white laborers, who would not work for the wages offered them, have collected and attacked the Chinese laborers, whose only crime was that they worked cheap rather than starve, and, by supplying the labor market to some extent, prevented the perfect success of combinations to control it, and have driven them from their labor, assaulted them with stones and clubs, wounded and killed them, and have for a time set the officers of the law at defiance in their efforts to preserve the public peace.

We need a healthier state of public opinion, which shall require and obtain just and constitutional legislation for the protection of the Chinese in the rights that pertain to them as human beings, as well as those which they can claim as a part of our population. All laws discriminating against the Chinese should be repealed, and they should be protected in their persons and property. This cannot be done so long as the miner's license tax and immigration tax are collected solely of them, and they are not permitted to testify in our courts.

There is a large and influential class of our citizens, composed of merchants, manufacturers, capitalists, and educated men, who appreciate the importance of Chinese labor and trade to this State, and are in favor of treating them fairly, repealing the unjust laws that oppress and wrong them, allowing them to testify in our courts, and effectually protecting them in their persons and property. They have been represented to some extent in every session of our legislature, and at the last nearly succeeded in the enactment of a law allowing the Chinese to testify. It is but justice to our own people to say that the great body of the party hostile to the Chinese is made up of laborers, who choose to consider them as competitors, and of foreigners, whom a sense of consistency and justice ought to restrain from a persecution of other foreigners. The mob which have attacked the Chinese have consisted in great part of the nations of Europe. If the result depended solely on the action of native-born Americans, the Chinese would speedily have had justice done them.

In connection with this subject, I would call your attention to the treaty made by our government with China in 1858, with the provisions of which you are doubtless familiar. It provides (Article I) that the two peoples "shall not insult or oppress each other for any trifling cause, so as to produce an estrangement between them;" that (Article XI) "all subjects shall be protected from all insult or injury of any sort; that if citizens of the United States shall commit any improper act in China, they shall be punished only by the consul, according to the laws of the United States;" that (Article XXX) "should the Chinese nation grant to any nation, or the merchants or citizens of any nation, any right, privilege, or favor, connected either with navigation, commerce, or political or other intercourse, which is not conferred by this treaty, such right, privilege, and favor shall at once freely inure to the benefit of the United States, its public officers, merchants, and citizens."

This treaty is the law of the United States as well as of China. While it contains no positive provision for the extension to the Chinese of the rights and privileges granted to us, yet we are bound in justice and honor, under it, to give to the Chinese resident among us such of them as may not be inconsistent with our federal Constitution. No one who has ever read that Constitution will contend that it would be in violation of its letter or spirit to extend to their persons and property the same protection given to natives of Europe. It is in violation of its spirit to withhold it. For the honor of our nation, the interests of our country and the maintenance and growth of our rapidly increasing commerce with Asia, it is our duty to make the residence of the Chinese among us safe and respectable. We are too great a nation, our institutions are too democratic, our laws generally too liberal and just, our position too commanding, our influence too great, to afford to allow semi-civilized China to outdo us in humanity, public spirit, liberality, and justice. And yet, if the laws of California, and the position of the Chinese in this State, be the basis of our judgment, we must make the humilating confession. The government of China has just reason to complain that we have not observed our treaty stipulations, and to call upon us, as we would upon them, for protection to her citizens in our territory.

It would be considered presumptuous for me to suggest, further than I have already done, the remedy for the wrongs and injustice hereinbefore recited. I think that if the matter was brought to the attention of the Executive and Congress, their wisdom would enable them to suggest proper measures for obtaining the desirable result proposed. I will state in this connection, that within a few days the telegraph has brought us the news that a new and more liberal treaty between the United States and China, with reciprocal rights and obligations, is likely to be ratified. The prospect of receiving greater protection than they have done, by virtue of its provisions, has given our Chinese residents much satisfaction, and greatly excited their hopes.

There is no data, other than that furnished by the custom-house, upon which I can now base my estimate of the number of Chinese upon this coast. The number of immigrants, according to the table given on page 4, is 108,471. This number is much too small. Judging by partial statements furnished to me by the Chinese companies of their members, at least 10,000 should be added, making a total of 118,471. Ship-

masters have in numerous instances made false passage returns, in order to save themselves from the payment to the State of five dollars per head for all their passengers. As one evidence of the incorrectness of these returns, I will state that the whole number of female passengers from China for the first two quarters of this year, according to the custom-house record, is 16, when in fact 25 came on one vessel.

The following table exhibits, as accurately as I can now determine it, the Chinese population on the Pacific:

| | | |
|---|---|---|
| Total immigration to July 1, 1868 | | 118,471 |
| Total emigration for the same time | 45,887 | |
| Add for errors | 2,000 | |
| Estimated deaths | 6,000 | |
| | | 53,887 |
| Total number now on this coast | | 64,584 |

These are scattered about through our States and Territories somewhat as follows:

| | |
|---|---|
| In California, about | 43,584 |
| In Oregon, about | 2,000 |
| In British Columbia, about | 2,000 |
| In Nevada, Idaho, and Montana, about | 17,000 |
| | 64,584 |

We may divide the Chinese in this State into city and rural population. As nearly as I can ascertain, they are distributed as follows:

| | |
|---|---|
| In San Francisco | 10,000 |
| In Sacramento | 1,000 |
| In Marysville and Stockton | 1,000 |
| In other towns in the State | 5,000 |
| | 17,000 |
| Residing in the country in small settlements, on farms and on the railroad, and in the mines | 26,584 |
| | 43,584 |

The occupations of the Chinese in this State may be classified as follows:

| | | |
|---|---|---|
| Whole number in the State | | 43,584 |
| Number of women | | 4,000 |
| Number of males | | 39,584 |
| Merchants and traders | 2,000 | |
| Engaged in manufacturing for themselves | 2,000 | |
| In other occupations | 1,000 | |
| Wash-houses | 1,800 | |
| Laborers in factories and in other capacities in cities and towns | 3,500 | |
| Mechanics | 1,000 | |
| House servants | 3,000 | |
| Laborers on the Pacific railroad | 10,000 | |
| Miners | 13,084 | |
| Farm laborers | 2,000 | |
| Fishermen | 200 | |
| | | 39,584 |

The following table exhibits the licensed occupations of the Chinese in San Francisco for the years 1867 and 1868:

| | 1867. | 1868. | Decrease. | Increase. |
|---|---|---|---|---|
| Wholesale dealers | 21 | 19 | 2 | ..... |
| Retail dealers | 40 | 56 | ..... | 16 |
| Manufacturers | 24 | 26 | ..... | 2 |
| Tobacconists—cigar makers | 33 | 41 | ..... | 8 |
| Apothecaries | 9 | 10 | ..... | 1 |
| Physicians | 9 | 9 | ..... | ..... |
| Pawnbrokers | 5 | 4 | 1 | ..... |
| Wholesale liquor dealers | ..... | 3 | ..... | 3 |
| Retail liquor dealers | 2 | 7 | ..... | 5 |
| Peddlers | 2 | ..... | ..... | ..... |
| Butchers | 10 | 9 | 1 | ..... |
| Eating houses | 8 | 7 | 1 | ..... |
| Intelligence offices | 9 | 7 | 2 | ..... |
| Distillers | 1 | 1 | ..... | 1 |
| Theaters | 1 | 2 | ..... | 1 |
| Total | 173 | 200 | 7 | 37 |

The following table exhibits an estimate of the amount of business done by the Chinese merchants and manufacturers of San Francisco during the year 1867:

| | |
|---|---|
| Amount of sales by merchants | $20,000,000 |
| Value of 19,000,000 cigars made, at 25 cents per thousand | 475,000 |
| Value of slippers made | 75,000 |
| Value of clothing manufactured | 25,000 |
| Value of jewelry manufactured | 8,000 |
| Value of blacking manufactured | 2,000 |
| Value of other manufactures | 10,000 |
| | 2,595,000 |

The tax paid to the United States government by the Chinese, on manufactures alone, amounted to nearly $100,000.

The amount of business done by the Chinese in manufacturing can perhaps be better estimated by returns made to the assessor of United States internal revenue by the principal merchants and manufacturers.

*Returns of cigar makers*, 1867.

| | |
|---|---|
| Bing Fon | $1,196,300 |
| Sing Chong Shing | 953,400 |
| Sing Ur | 920,350 |
| Sang Yu | 890,300 |
| Soong Sing & Co | 1,555,800 |
| Total returned by five manufacturers | 5,517,150 |

*Returns of slipper makers*, 1867.

| | |
|---|---|
| Ah Git | $9,737 |
| Sun Yat | 22,982 |
| Sen Sam Lee | 6,534 |
| Value of slippers made by three manufacturers | 39,253 |

Amount of jewelry returns by Tin Tuen manufacturer, 1867, $2,071 50.
Return by Teck Chung for March, 1868, of blacking manufactured, $138.

Returns of sales by four Chinese merchants for the first quarter, 1868:

| | |
|---|---|
| Augh Kee & Co | $24,000 |
| Sun Chong Kee & Co | 20,000 |
| Hop Kee & Co | 17,000 |
| Wing wo Sang & Co | 12,000 |
| | 73,000 |

The incomes returned by Chinese in San Francisco for 1867 are as follows:

| | |
|---|---|
| Tung Yu | $3,903 |
| Chy Lung | 2,000 |
| Fork on | 1,308 |
| Hop Kee | 643 |
| Wing wo Soong | 1,918 |
| Wing Soong | 816 |
| Sin Chong Kee | 1,049 |
| Quong Chy Lung | 216 |
| Tan On | 372 |
| Hop Yick | 173 |
| Hung wo Tong | 51 |
| | 12,454 |

*Imports at the port of San Francisco, from China, for the past four years.*

| Year. | Tea. | | Rice. | | Smoking opium. | Other articles. | Total. | Duty. |
|---|---|---|---|---|---|---|---|---|
| | Pounds. | Value. | Pounds. | Value. | | | | |
| 1864 | 1,387,138 | $363,820 | 19,382,090 | $586,820 | $210,514 | $697,895 | $1,859,049 | $1,022,502 |
| 1865 | 700,760 | 177,333 | 27,850,444 | 978,211 | 232,039 | 553,876 | 1,940,459 | 963,4[illegible] |
| 1866 | 1,042,509 | 291,389 | 25,442,098 | 868,613 | 225,610 | 567,900 | 1,953,003 | 1,068,345 |
| 1867 | 1,237,060 | 445,686 | 14,649,431 | 413,157 | 480,434 | 343,525 | 1,682,802 | 1,095,02[illegible] |
| Total duty | | | | | | | | 4,080,587 |

*Export of specie to China, from the port of San Francisco, for the same years.*

| | |
|---|---|
| 1864 | $7,868,973 |
| 1865 | 6,963,522 |
| 1866 | 6,527,987 |
| 1867 | 9,031,504 |

*Export of merchandise to China, from San Francisco, for four years.*

| | |
|---|---|
| 1864 | $1,895,940 |
| 1865 | 1,296,211 |
| 1866 | 1,399,065 |
| 1867 | 697,950 |

The foregoing tables, showing our commerce with China, which has been built up, and is maintained by the Chinese merchants of San Francisco, exhibit some important facts. I will here observe that the importations from China, by other than the Chinese, are inconsiderable. All the opium, tea, rice, and most other articles, being such as silks, medicinal plants, and articles of food used by their countrymen in this State, are imported by them. They supply our own merchants here with these things. The Chinese use all the opium, it being prepared for smoking, and most of the rice, and a large proportion of the tea imported in this port. During the past four years the Chinese merchants have paid to the United States government the sum of more than $4,000,000 in gold for duties alone. The United States government is therefore so much the richer for their presence. If the Chinese were to leave this State, and return to their own country, our trade with China, being almost wholly maintained by them, would be destroyed, and that source of present and prospective prosperity to this city would be lost to us. The development of that trade must depend upon the action of the Chinese, and that will be largely governed by the manner in which they are treated by our people, the character of our legislation affecting them, and the sufficiency of the protection that is extended to their persons and property. If our resident Chinese merchants and capitalists felt secure in this country, they would greatly increase their business, in a few years double our trade with China, and invest much of their capital in this country in the development of its resources.

The following table, prepared by the officers of the Chinese companies in this city, for the joint select committee of the legislature of this State, in 1862, upon "the Chinese population of the State of California," shows the expenditures made by the Chinese in 1861 for the benefit of our government and people:

| | |
|---|---|
| Amount of duties paid by Chinese importers into the custom-house at this port | $500,000 |
| Freight money paid to ships from China | 180,683 |

| | |
|---|---|
| Passage money paid to ships from China | $382,000 |
| Head tax | 7,556 |
| Boat hire | 4,767 |
| Rents for stores and storage | 370,000 |
| Licenses, taxes, &c., in State | 2,164.273 |
| Commissions paid auctioneers and brokers | 20,393 |
| Drayage in San Francisco | 59,662 |
| Farming in the interior of the State | 360,000 |
| Paid for American products in San Francisco | 1,046,613 |
| Paid for American products in the State | 4,953,387 |
| Paid for fire insurance in the city | 1,925 |
| Paid for marine insurance in the city | 33,647 |
| Paid for steamboat fare to Sacramento city and Stockton | 50,000 |
| Paid for stage fare to and from the mines | 250,000 |
| Paid for steamboat up-river freights | 80,000 |
| Water rates for Chinese miners | 2,160,000 |
| Mining claims, brought by Chinese miners | 1,350,000 |
| Total | 13,974,909 |

This table may be relied upon as substantially correct. From such data as I have already examined, I think the aggregate might be increased for the year 1867 to $18,000,000 in gold, being nearly $45 for each one of our white population, estimating it at 400,000. This is much more than one-half of the total yield of our gold mines in this State for the same period. That the State, in all branches of its government, and all classes of its people, is greatly benefited by this considerable expenditure of money, and that all branches of business and industry are quickened and sustained by it, is too self-evident a truth to need argument for its demonstration. If it was suddenly suspended, all branches of our government—city, county, and State—would lack sufficient revenue to pay their expenses, and would need to resort to greatly increased taxation upon the white population to obtain it. A commercial crisis would be inevitable, many of our merchants and business men would be ruined, and all classes of our citizens would suffer loss and inconvenience.

The effect of the China trade upon our shipping interest is very great. We have a large tonnage engaged in carrying freight and passengers between this city and China. It is sustained by the Chinese immigration and the commerce created by the Chinese merchants. Even the mail-steamship line between this city and China and Japan depends for its support upon Chinese passengers and freights. I think it is hazarding nothing to say that, if the Chinese support were withdrawn from it, it could not be maintained without very great loss to its owners. The estimate made by the Chinese of the amount paid by them in 1861 for freight and passage to ships *from* China alone is $562,683. It will be at least $700,000 for the present year. I think the amount paid by them during this year to ships engaged in the China trade will equal $1,000,000.

There is a very mistaken impression outside of this State that the Chinese in California are only miners and merchants. In fact, they fill so many employments, and are engaged in so many branches of industry, that it would be almost tedious to enumerate them. The following is a brief statement of their occupations in this city:

| | |
|---|---|
| 1. Wholesale merchants | 19 |
| 2. Retail merchants | 56 |
| 3. Manufacturers | 26 & 41, 10 |
| 1—of cigars, employing about | 1,500 |
| 2—of slippers, " " | 400 |
| 3—of clothing, " " | 100 |
| 4—of jewelry, " " | 25 |
| 5—of blacking, " " | 5 |
| 6—of tin and copper ware " | 25 |
| 7—of other things, " | 25 |
| 4. Distillers | 1 |
| 5. Physicians | 9 |
| 6. Apothecaries | 10 |
| 7. Wholesale liquor dealers | 3 |
| 8. Retail liquor dealers | 7 |
| 9. Restaurants | 7 |
| 10. Butchers | 9 |
| 11. Portrait painters | 2 |
| 12. Engravers and sign painters, about | 6 |
| 13. Clerks | 10 |
| 14. Mechanics: 1—Carpenters; 2—Tailors; 3—Workers in metals; 4—Shoemakers | 1,000 |

| | |
|---|---|
| 15. Wash-houses, employing about | 1,000 |
| 16. Intelligence offices | 7 |
| 17. Fishermen, about | 40 |
| 18. Wood and lumber dealers | 3 |
| 19. Pawn-brokers | 4 |
| 20. Hucksters | 20 |
| 21. House servants: 1—General servants; 2—Cooks; 3—Waiters; 4—Nurses | 1,500 |
| 22. Laborers, about | 1,000 |
| 23. Factory hands | 200 |
| 24. Porters and servants in stores, about | 100 |
| 25. Cobblers and tinkers | 100 |
| 26. Pedlers: | |
| 1—Of fish | 3 |
| 2—Of vegetables | 18 |
| 27. Pedlers among themselves, about | 40 |
| 1—Of fruits; 2—Of cooked food and soups, &c. | |
| 28. Street scavengers, about | 50 |
| (Rag and bone pickers, gatherers of paper, &c.) | |
| 29. Employments among themselves: | |
| 1—School teachers | 4 |
| 2—Barbers, about | 30 |
| 3—Priests and attendants upon the temples, about | 20 |
| 4—Employed in their own stores or shops | 1,000 |
| 5—Employed in their manufactories: | |
| (1) Of cigars | 1,500 |
| (2) Of slippers | 400 |
| (3) Of clothing | 100 |
| (4) Of jewelry | 25 |
| (5) Other, about | 50 |
| 6—Tailors, about | 20 |
| 7—Boarding houses | 30 |
| 8—Actors and employés in the two Chinese theaters, about | 200 |
| 9—Employés in gambling houses, and lottery houses, and opium shops, about | 200 |
| Chinese thieves, about | 50 |

This estimate, when taken in connection with the number of female Chinese here, accounts for the Chinese population of 10,000 in this city, and shows their honest and also their disreputable employments, and will enable you to form a judgment of their usefulness to our community.

It is an interesting fact, not generally known, that all the Chinese trades and occupations, when those engaged in them are in sufficient numbers, have their trades' unions, which are more perfect in their organization and comprehensive in their purposes than those formed by our own people. All engaged, whether it be as employer or employed, belong, and have equal rights. Their purpose is to meet and consult for the general good, and establish uniform rules as to hours of labor, manner of carrying on business, prices paid and charged for certain work, &c. Thus, in this city, the cigar-makers, slipper-makers, manufacturers of clothing, washermen, &c., each have their trades' union.

I have not time to comment upon the different occupations of the Chinese, but must content myself with merely naming them.

The Chinese in this State are, as they have been described by all travelers in their empire, a quiet, law-abiding, industrious people. They are always at work in some way, and earning something, though it may be but little. Unlike many of our laboring class, they never remain idle because they cannot get all they choose to ask for their labor. A Chinaman will live where and when a white man would starve; and for this reason, that he will labor for a small sum which, perhaps, will only provide him with the commonest necessaries of life, while the white man, stickling for what he considers a principle, will not consent to receive less than the full value of his services. It is this fact, among other things, that renders Chinese labor particularly valuable to our State. It is cheap, reliable, and persevering. Their employers are not fearful of strikes and sudden suspensions of work, to their great injury. When Chinese contract to work for a certain term, there is no danger that they will fail to keep their engagements. I know that there are individual exceptions to this, but the rule is true. But for the cheap Chinese labor our cotton and woolen mills upon the Pacific could not be sustained so as to compete with New England. New manufacturing enterprises are agitated, and they all base their calculation of prosperity upon Chinese labor. Chinese laborers are quite as honest, and more patient and persevering, than whites, and by many are preferred to them.

Many persons have speculated about what Chinese labor is capable of doing for this State, and have been very enthusiastic in their predictions of its effects upon our future

prosperity. This branch of the subject is interesting, but the limits of this article will not permit me to pursue it. Their labor might, and probably will, make this State blossom like the rose, and turn its desert places into grain fields, tea, rice, sugar, coffee, and cotton plantations, and vineyards and orchards; but I fear that these things are far distant in the future. Many things must be done; a great change must take place in public opinion, and the Chinese must be encouraged and protected, before it will be safe to make such calculations.

Our farmers and manufacturers have in the Chinese an inexhaustible supply of cheap labor, which, if they choose to take advantage of it, will enable them to extend their operations and enterprises almost without limit. Two thousand Chinese are now employed on our farms, and 1,000 in our factories. Their numbers can be almost indefinitely increased.

If properly protected and encouraged, the Chinese will yet buy farms and establish factories, both on a large and small scale. They have both the capital and enterprise. Many of them possess considerable means, and others great wealth, which hitherto, owing to their sense of insecurity in our State, they have concentrated in China, except so far as it was needed for their business here. Let them feel perfectly secure, and they not only will not send away their surplus capital, but will keep it here, and add to it from China, and use it for the development of our State. They are shrewd, enterprising, well-trained, and successful business men. If they feel secure in establishing tea and rice plantations in our State, they will yet do so. The new branches of business, manufacturing and other, which they have originated, established, and made successful in this city, demonstrate their enterprise and ability better than theorizing can do.

The great objections urged against the Chinese are, that they are pagans, foreigners, and work cheap. It is not necessary to consider these at length. If no man who is not a true Christian was permitted to labor, more than one-half of our white laborers would be debarred from employment; and if they were required to be attendants on Christian churches, not more, probably less, than one-fourth would be eligible. It is absurd to attempt to make such a distinction against the Chinese. The fact that they are foreigners is an objection that, if valid, might be applied against all but native-born Americans; because, in fact, a man born in China is no more of a foreigner than one born in Europe or South America. The cheapness of Chinese labor is one of its strongest recommendations. Men very naturally attempt to obtain as much for their labor as they can compel their employers to pay. It is equally natural that capitalists should endeavor to cheapen labor as much as they can. The one class operates as a salutary check upon the other. The full supremacy of either would bring ruin upon any State.

It is not dear, but cheap labor that develops and enriches a nation. England, France, and Germany do not send us millions of dollars' worth of manufactured goods because those states are older or richer than ours; but because they possess abundance of very cheap labor, which enables them to make and send us goods which, even with the addition of heavy duties, are cheaper than we can make them. If our capitalists could obtain labor for one-half the price paid in those nations, we could make and sell the very articles we now receive, to them. What is true of manufacturing is equally true of all other branches of industry. When this State can command enough cheap Chinese labor, our exports of agricultural products alone—grain, wine, and fruits—will be more than four times as great as the yield of our gold mines.

Before dismissing the subject of Chinese labor, it may be as well to say that there are no "coolies" in this State, and there never have been. Emigrants obtain the money to pay their passage in various ways: some have money, others sell their property and obtain it; some borrow from friends or relations, some pledge their families as security for the loan. They come of their own option, and when they arrive here are free to go where they please, and engage in any occupation they will. Those who arrive in this city without means are assisted by their countrymen, and loaned money to go to the mines or engage in some other labor, and aided in obtaining employment. They are as much free agents as our own people. A great and wide-spread misapprehension has existed on this subject, which has caused much of the hostility to the Chinese.

I do not think it necessary to say much about the Chinese miners in this State. In the early years of the Chinese immigration they comprised the great body of their people. As already shown, they do not now number one-third of their population in this State. Their numbers have been and are now steadily decreasing. They are engaging in other occupations. Most of them are placer miners. There is very little quartz mining done by them, except as laborers in American mines. Of the 13,084 miners, about 2,000 are working for American mining companies. They are afraid to work under ground, and for that reason confine themselves to surface mining. I only know of one exception to this, in the case of a body of Chinese employed in an American mine in the northern part of this State. The Chinese miners have paid to the counties and State from $4,000 to $8,000 a year for foreign miners' license tax. They pay large sums to Americans for water and mining claims. By reference to the table on page 539, it will be seen that they paid to Americans in 1861, for these two items alone, the large sum of $3,510,000. They rarely work any claims or mines but such as

have been abandoned by white men because they were considered too poor to pay for working. The Chinese miners, like all other classes of their people, are contented with a compensation that our race regards as inadequate. It is impossible for me at this time to form a reliable estimate of the amount of gold taken out by them. I greatly doubt if it has ever exceeded $5,000,000 in any one year, or would amount to more than $3,000,000 for the year 1867. It has been estimated by American merchants in the mining counties, and by themselves, that seven-tenths of their earnings find their way into the hands of Americans for taxes, purchase of mining claims, tools and machinery, clothing, food, &c. It is unjust that this useful class of laborers should be specially burdened with an onerous tax, and should be specially discriminated against, denounced, and persecuted; what they take from the mines is not loss, but gain to the State, as but for their labors the gold they obtain would lie hidden in the earth and be of no benefit to any one.

The Chinese cannot be called either ignorant or stupid. It is generally known that all can read and write. It is certain that all have received some degree of education, though, as with us, it differs according to the wealth and social condition of the individual. They are intelligent and quick to learn. The rapid progress of some of the Chinese in schools where they are taught English is astonishing. They are very anxious to acquire our language, and pay large sums to private tutors who teach it to them.

As a class, the Chinese are quiet, peaceable, law-abiding people. They give our authorities comparatively but little trouble. Their offenses are mostly venial, and consist of gambling, opium smoking, and petit larceny. A large portion of the females are professional prostitutes. The officers of the Chinese companies have always exerted themselves zealously, and with much success, to purify the morals of their countrymen, to restrain them from violations of our laws, and to bring the guilty to punishment. They have rendered valuable aid to the officers of the law in the administration of justice.

I will here insert, as evidence strongly corroborative of my views, a few extracts from a report made to the legislature of this State on the 11th of March, 1862, by a joint select committee thereof, "relative to the Chinese population of the State of California."

"If there is any proof going to establish the fact that any portion of the Chinese are imported into this State as slaves or coolies, your committee has failed to discover it. The present laws in force in regard to this class of our population, in the opinion of your committee, impose upon them quite as heavy burdens as they are able to bear, and in many instances far beyond their ability to stand up under. Your committee trust that no more legislation will be had calculated to oppress and degrade this class of persons in our State." * * * * * * * * *

"And for this $14,000,000 which we gather from the Chinese population, what do we give them in exchange? Mainly, thus far, the privilege to work in the mines, on bars, beds, and gulch claims, which have been abandoned by our countrymen and other white men because, by their intelligence and skill, they could find other diggings where they could do better.

"Such claims to all but the patient, moderate Chinese, would otherwise have remained idle and unproductive. In towns and cities we have washmen and cooks, who to some extent compete with imported servants from Europe, and this is about the only competition which some 50,000 peaceable, patient, and industrious Chinese immigrants have, thus far, produced in California. Surely if this declared evil were doubled, or magnified tenfold, it need not create alarm in the breasts of cautious and fearful citizens.

"We have about 80 Chinamen working in the Mission woollen factory, which by reason of their cheap labor is able to find employment for some 70 white men. With high rates of labor, this valuable enterprise could not be prosecuted in this State." * * * * "With cheap labor we could supply all our own wines and liquors, besides sending large quantities abroad." * * * * * * * * * * * *

"It is charged that the Chinese demoralize the whites. We cannot find any ground for the allegation. We adopt none of their habits, form no social relations with them, but keep them separate and apart, a distinct, inferior race. They work for us; they help us build up our State by contributing largely to our taxes, to our shipping, farming, and mechanical interests, without to any extent entering these departments as competitors; they are denied privileges equal with other foreigners; they cannot vote, nor testify in courts of justice, nor have any voice in making our laws, nor mingle with us in social life. Certainly we have nothing to fear from a race so contemned and restricted; on the contrary, those Chinamen who remain here are educated to our standard." * * * * * * * * *

"The practice of Chinese prostitution by their women is as abhorrent to their respectable merchants as it is to us. They have made several efforts to send these women

home to China, but their efforts have been frustrated, under the plea that this is a free country and these women can do as they please."

* * * * * * * * *

"The convictions in the police court, San Francisco, for the year 1861, were—whites, 2,783; Chinese, 168. Average of Chinese about 1 in 16. The 24 hour sentences as above stated average about 130 per month. About three-fourths of the Chinese convictions are women, (prostitutes,) arrested from the alleys about Jackson and Pacific streets.

"Your committee were furnished with a list of 88 Chinese who are known to have been murdered by white people; 11 of which number are known to have been murdered by collectors of foreign miner's license tax, sworn officers of the law. But two of the murderers have been convicted and hanged. Generally they have been allowed to escape without the slightest punishment. The above number of Chinese who have been *robbed and murdered* compose probably a very small proportion of those which have been murdered, but they are all which the records of the different societies of companies in this city show. It is a well-known fact that there has been a wholesale system of wrong and outrage practised upon the Chinese population of this State which would disgrace the most barbarous nation upon earth."

* * * * * * * * * *

"Instead of driving them out of the State, bounties might be offered them to cultivate rice, tea, tobacco, and other articles."

The foregoing statement embodies substantially the information you desire, though it is necessarily given in a very concise form. I regret that I am not now able to make it more elaborate and comprehensive, and consequently more interesting and valuable.

There are many things connected with the residence of the Chinese in this State, as their religion, customs, way of living, manner of doing business, their companies, &c., of which I have said nothing. They would hardly add much to the value of this paper.

There is one branch of this subject, viz, its influence upon the relations of our government with China, of which I have said nothing, because it belongs peculiarly to your office and consideration as our minister to that empire. That the residence of a large Chinese population in this State has already excited a powerful influence upon the Chinese government in our favor I think there can be no doubt. To it we owe the selection of one of our countrymen, the Hon. Anson Burlingame, as special ambassador from that empire. Hitherto England has been the great power in China, but it is a fact well known to residents of that country that our nation is fast gaining the ascendency, and we have reason to hope and believe that it will not be many years before we will exert a preponderating influence with that government. There are already many indications that this change is taking place. The time will come when most of its trade will be monopolized by our commerce, and thus greatly increase this branch of our national industry and wealth. The government of China naturally feels a keener sympathy and a higher consideration for a nation which gives a home and employment to 75,000 of its people, and to and from which they are constantly passing, than for countries to which its subjects do not go, and in which circumstances do not invite their residence. The influence of the large Chinese population on this coast in our behalf is considerable, and is steadily exerted. The safer and more honorable the residence of our Chinese population is made, the greater will be their exertions, the more potent their influence with their government for us, and the higher will be the consideration in which we are held. In failing to make a proper use of the opportunities and means afforded us by the residence of the Chinese here, we neglect our duty and interest in not using all honorable means to establish and maintain our ascendency in Asia. The prize is within our grasp if we will only stretch out our hands to obtain it.

After I had written a portion of this paper I attended, by invitation, a meeting of the presidents of the six Chinese companies in this city, representing the entire Chinese population on this coast, because they all belong to these companies. I read what I had written, stated that it was prepared at your request, to be laid before the United States government, and that you are disposed to do them justice. They expressed themselves much gratified. They said that, if protected by just legislation, they would greatly extend their business, increase our trade with China, and invest their capital in the permanent improvement of our State; that they would purchase real estate, and feel an interest in the country, and endeavor to aid in its development. They have a keen sense of the wrongs that have been inflicted upon them, and under which they now suffer, and hope that they may yet be freed from them and be protected in their lives and property. At my suggestion they are preparing a paper on behalf of the Chinese population on the Pacific, embodying a recital of their grievances, and the legislation and protection they deem essential to their peace and security. When completed, it will be a valuable and interesting public document.

In conclusion, I do not know that it is necessary to add anything to what I have already written. I have shown how the Chinese came among us, their numbers, where they reside, and what they are doing. I have stated their wrongs, legislative and

other, that have been inflicted upon them, and from which they suffer, and have intimated the redress they require. I believe them to be a very useful and valuable part of our population, contributing much to our prosperity, and it is my earnest hope, in common with the better class of our citizens, that they may receive adequate protection and justice. Humanity and justice, no less than interest, require this of us.

It is possible, by injustice and persecution, to drive the Chinese who are here to foreign countries, as to the colony of British Columbia, where a wiser and more liberal policy is pursued toward them. Such an event would be a great public calamity to us, inflicting, it is to be feared, permanent injury upon our commerce and State. It is also possible, by being just and humane, to attach them still more strongly to us, and make it their interest as well as ours to enrich us with their labor and trade. It is to be earnestly hoped that we may speedily decide to do them justice.

Very respectfully, your obedient servant,

DANIEL CLEVELAND.

Hon. J. Ross Browne,
*United States Minister to China.*

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## *Mr. Williams to Mr. Seward.*

No. 18.] LEGATION OF THE UNITED STATES,
*July* 31, 1868.

SIR: Referring to Mr. Burlingame's despatch No. 124, of December 15, 1866, and others, relating to the fate of the American schooner General Sherman in Corea, I have now the honor to inclose a correspondence (inclosures A, B, C,) with the Chinese government, which was commenced for the purpose of engaging its good offices in ascertaining, by direct application to the King of Corea what were the real circumstances connected with the loss of that vessel.

The reason why an earlier application was not made to Prince Kung, after receiving your dispatch, was that it was deemed best to await the arrival of the annual Corean embassy at Peking, when more direct intercourse with the officials from that country could perhaps be obtained. This embassy did not reach the capital till January, and at that time the rumor mentioned in my note to Prince Kung had assumed so much probability that I wished to learn what grounds there were for believing it. This, unfortunately, could not be done till after the Coreans had left for their country, but in any case I could not have asked them directly, as the Chinese officials in this city are particularly careful to keep these tributary nations confined to their own quarters, and they themselves are shy of all intercourse.

I was, however, able to see one of the confidential members of the Corean mission, and ascertained from him privately some particulars relating to the attack on the schooner. He told me that he was not himself in that part of the country at the time she was in the river Pingjang, but he heard that, after the vessel had got ashore, she keeled over as the tide receded, and her crew landed to guard or float her. The natives gathered around the vessel, and ere long some altercation arose between the two parties, which soon led to blows and bloodshed, and a general attack on the foreigners, who were all killed on the spot by the mob of natives, of whom fully 20 were killed. He understood that the vessel was French, though he knew nothing of the flag which she bore, nor even of the signification or distinction of foreign flags; but he was sure that all her company were dead, and had moreover believed that the wreck still remained in the Pingjang river.

Before the reply from the Corean authorities was received in Peking, the United States corvette Shenandoah had returned from her visit to that country, where Captain Febinger went in March to ascertain the

truth of the same rumor that I refer to in my note A. From what he learned, combined with the reply given him, and apparently intended for the United States steamer Wachusett, when she was there in 1866, there can remain no reasonable doubt that the whole company on board the General Sherman were killed about September, 1866, and the evidence goes to uphold the presumption that they invoked their sad fate by some rash or violent acts towards the natives.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, March* 3, 1868.

SIR: Referring to my note to the Foreign Office of October 28, 1866, respecting an American merchant vessel, the schooner General Sherman, which had been stranded in Corea in August of that year, at which time I was favored by a reply assuring me that the military and civil authorities of Manchuria should attend to the wants of such of the crew as might be handed over to them, I have now the honor to bring the subject again before your imperial highness, with the request that you would communicate upon it with the Corean government.

It appears, from reports received after the date of my note of October, 1866, that when the General Sherman got ashore in Corea the natives of the country flocked about her, and that a quarrel arose between them and the crew, resulting in injury and wounds to both parties, and a fight, in which all the latter were ultimately destroyed. In consequence of this report, the admiral commanding the United States squadron in these seas last summer dispatched one of his vessels to Corea to make inquiries into the matter, and ascertain the real circumstances of the affair on the spot; but this he was not able at the time to do in a satisfactory manner.

A day or two since I received from the United States consul at Chifu the report of a pilot, named Yu Wantai, who last year returned from Corea, and related to him "that he had gone up a stream called Piyang river, and about 10 miles from the sea had seen a foreign vessel lying on the southern bank, without masts or sails, and her hull full of water. He had also met a Corean, named Kin Tsz'ping, a native of an island called Tsioh Tau, or Sparrow island, who told him that in March last he had himself seen two foreigners and two Chinese at the magistrate's office at the chief city of the district of Piyang. The rest of the foreigners and Chinese had all been killed by the farmers and people of the country, and not by the Corean authorities or soldiers. He saw these two foreigners walking in the streets without any instruments of torture upon them, followed by policemen to see that they did not get away; but he could not ascertain why the Corean magistrates detained them in this manner."

This report of the pilot Yu Wantai seems to me to possess a degree of truth, and not to be a made-up story, and I therefore lose no time in making it known to your imperial highness, to see whether some plan cannot be carried into effect to secure the liberation of these four men. I have myself also received directions from the government of the United States, in consequence of the report having reached Washington of the destruction of the General Sherman by the Coreans two years ago, to ascertain the true facts of the case and report upon them. This order, in connection with the unsuccessful visit for that purpose of the United States man-of-war last year, leads me now to make known these particulars to your imperial highness, and respectfully request that a communication be sent by his Majesty's government to the Corean government for them to deliver over the two foreigners and two Chinese to the Chinese authorities.

The government of the United States has no direct relations with that of Corea, but there is something quite inexplicable in the fact that when this American vessel went there her crew should be treated so barbarously, and there must have been some causes for it, which the American government cannot permit to pass by silently, and without full investigation being made into all the circumstances.

The governments of China and the United States have long been on the most friendly terms, and I therefore entertain the strongest expectation that his Imperial Majesty

will so represent this affair to the Corean government that they will see the propriety of transmitting a correct account of all the facts connected with the destruction of this American schooner within their territory, in order that I may report the same to the President. This act of courtesy will likewise add another evidence of the friendly relations existing between our respective governments, and will be duly appreciated.

I have the honor to be, with great respect, your imperial highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG,
*Chief Secretary of State for Foreign Affairs.*

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*Prince Kung to Mr. Williams.*

[Translation.]

MARCH 10, 1868, (*Tungchi, 7th year, 2d moon, 18th day.*)

Prince Kung, chief secretary of state for foreign affairs, herewith sends a reply:

On the 2d instant I had the honor of receiving your excellency's dispatch, in which you inform me of the report that two foreigners and two Chinese are now kept in durance by the Coreans, and request that the Chinese government should demand of the Corean government to hand them all over to the Chinese officers, &c.

On the same day that I received this communication the British minister, Sir Rutherford Alcock, also sent a dispatch to the following effect:

"Last year the French admiral took his squadron to Corea, where a collision took place with the authorities; and it was after that occurrence that an American vessel went to Corea with the intention of trading, and was attacked in the Piyang river, which she had entered, by the people. The report that came to me at the time was that her crew had been entirely cut off; but afterwards many persons reported that some of them were yet alive, and detained in confinement by the Coreans. Recently a Chinese pilot has informed the United States consul at Chifu that he knows that two foreigners and two Chinese belonging to this vessel are still alive in Corea."

On receiving these dispatches I have recurred to the note written by your excellency on the 28th of October, 1866, in which you stated that an American schooner had been wrecked in Corea, that the vessel had been burned, and 24 of her crew carried off, concluding with the request that directions might be sent to the authorities in Mukten that if any of these men were handed over they might be carefully cared for by those officials. The members of the Foreign Office personally assured you at the time that if any persons were thus delivered by the Coreans, those authorities should be directed to do everything necessary for their comfort; and corresponding instructions were immediately forwarded to the general in command at Mukten, and to the collector at Ninchwang. In due course a reply was received from the former officer, in which he stated that the Corean authorities had previously given over to the district magistrate of Ching-teh six distressed foreigners, saved from the wreck of [the "Surprise,"] a vessel which had been driven ashore in their country; that they had been already sent on to Yingtsz and handed over to Mr. Knight, the United States consul at that port, since which time no foreigners had been delivered to them.

Taking all these considerations together, and reflecting that an American ship of war has already visited Corea, but was unable to ascertain all the real facts about the matter, and that moreover the French and Coreans seem likely to engage in hostilities, it must be acknowledged that it will be rather difficult to learn the truth of the case. In the dispatch under reply you propose that measures be taken by this government to bring about the release of these men; and if I delay a little, to consult as to the best mode of procedure, it is that the affair may get the benefit of the best deliberations we can give it. It really will not be best to presently send off a mission to Corea asking about the surrender of these prisoners, for it will probably be evasively excused, and the probable success of the effort imperiled; or else, in our hurry, we shall not get at the real and right beginning of the matter; (referring probably to the misconception the Coreans would get of the object of the demand thus suddenly made on them.)

I would further wish your excellency to reflect that, although Corea is in one sense a dependency of China, her authorities are now engaged in eradicating the religion and forbidding its exercise; and their proceedings in this matter are carried on by themselves just as they please, but in what manner his Majesty's officials have not heard. A moment's reflection will no doubt enable you to see the whole bearing of this suggestion.

I have, however, already sent orders to Mukten to require the authorities in Manchuria to learn all they conveniently can upon this matter, and meanwhile send a reply to the British minister and to yourself in regard to it.

His Excellency S. WELLS WILLIAMS,
*U. S. Chargé d'Affaires ad interim.*

C.

*Note from the Foreign Office.*

JULY 11, 1868.

When we received the dispatch [of March 3] from your excellency, relating to the American schooner General Sherman, lost in Corea in 1866, concerning which an American man-of-war had gone to inquire about and had not succeeded in her mission, so that you requested us to communicate with the government of Corea to ascertain who were the two foreigners reported to be held in confinement there, and learn the reasons why they were so treated, that something might be done for their welfare, we replied that measures would be taken to further your wishes.

We accordingly presented a memorial to the throne, requesting that orders might be transmitted to the board of rites, directing its president to address the King of Corea and ask him to inquire whether two foreigners were really detained in his country. We have recently received a dispatch from the board of rites stating that a reply had been received from the King to the following effect:

"A two-masted foreign vessel went ashore in the Ping-jang river, but this government had no hand whatever in the disasters which happened to her and her crew; nor has any envoy from the United States been here to inquire respecting them. If you have any means of communicating this to him, you can no doubt fully inform him of this fact. It is a fixed rule of this country, moreover, that when unfortunate men are cast ashore they must be rescued and treated kindly, so that if there were at this time any such pitiable cases here of persons who had drifted down upon us, how could we detain them against their will? This rumor of two foreigners and two Chinese being kept here has no foundation; and it is a point, too, which can easily be ascertained. I shall be obliged if the officers of the board of rites will make these explanations on my behalf to those who may wish them."

It appears to us from the above that the statement by the Corean authorities that none of your countrymen are detained in their borders has much to confirm it; and in sending this reply we avail ourselves of the occasion to renew to you the expression of our best wishes for your happiness.

Cards of PRINCE KUNG.
WANSIANG.
PAUYUN.
TUNG SIUN.
TAN TINGSIANG.
TSUNG LUN.
SEU KI-YU.

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*Mr. Williams to Mr. Seward.*

No. 19.] LEGATION OF THE UNITED STATES,
*Peking, August* 1, 1868.

SIR: I have the honor to send, as relevant to the same general subject as my last dispatch, a copy of a letter just received from the United States consul general at Shanghai, reciting the principal points of an unlawful and violent attempt recently made to land in Corea, in which an American citizen named Jenkins was implicated, and for which he was tried in the consular court. The published report of the trial furnishes all the facts that could be gathered concerning the expedition, but it is evident that many details are yet concealed. The French priest was probably one of those missionaries who were obliged to escape from Corea in 1866, after the murder by the authorities of the foreign and native Christians, for his guidance led the armed party to the grave, which could have been known only to one intimate with the region. Mr. Jenkins's own statement to Mr. Seward also shows that he was well aware of the main objects in view and took great interest in their accomplishment. I deem the effort of the consul general to bring him to punishment worthy of particular commendation, and the publicity thereby given to this violent outrage on the Coreans will doubtless serve as a warning to those who may be tempted to repeat it.

I have heard it rumored that the Spanish minister designs to prosecute the matter in the Prussian consulate on the ground that the two Manilla men who were killed were unjustifiably brought into jeopardy through the violent proceedings of the captain of the steamer, and this may bring out more of the details of the expedition. Its effects upon the Corean people and rulers may lead them to shut themselves up within their borders more closely than ever; but it is not unlikely, too, that the authorities there may be alarmed, and make inquiries through the Chinese or Japanese what steps they should take for their future protection. In one way and another, they have latterly been so much disturbed in their seclusion and repulsive policy that they may begin to doubt whether it is as safe a mode as they have heretofore found it.

With regard to the question of jurisdiction of the United States consular courts in China over such an offense as this now charged against Mr. Jenkins, it appears to me to be complete, as long as the domicile of the accused is in China, who cannot be allowed to have the license to use this country as a base of operations for proceeding against another with which the United States have no political relations, and for the reason that they have none. If this view is not correct, then the admiral on the station would be competent to try the offense as one done on the high seas, like piracy or illegal privateering.

Between these two views of the jurisdiction, I do not think any new legislation is necessary.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Mr. G. F. Seward to Mr. Williams.*

UNITED STATES CONSULATE GENERAL,
*Shanghai, July* 13, 1862.

SIR: I inclose the supreme court and consular Gazette's report of the trial in the consulate of F. H. B. Jenkins, for setting on foot an expedition to Corea, having for its object to exhume the remains of a dead sovereign, or other person or persons of that country, and to hold the bones for profit.

This expedition left Shanghai in April last. There were apparently three leaders: a French priest named Farout, a citizen of Hamburg named Oppert, and our countryman above named.

A steamer under the North German flag, named the China, of 648 tons, was chartered for it, and a steam tender of 60 tons, about, also provided. About eight Europeans, 20 Manilas, and 100 Chinese sailors, beyond the complement of the ship, were engaged and embarked. At Nagasaki muskets enough were taken to arm all these. Arrived on the coast of Corea, two small boats were seized, and within a few hours the tender towing them steamed up a river about 40 miles. Here the crowd of armed men landed and made their way across the country to a graveyard, where the surrounding hills were covered with Coreans; they went to work to exhume the bones for which they had come. These were contained in a stone or mason work sarcophagus, and having penetrated through the earth to it, they found themselves unable to do more, and returned to the large steamer, having met no opposition which they had not overcome by the simple display of their arms, or by firing them in the air. The vessel was at once transferred to another point on the coast. Here communication was opened with native officials, and carried on during three days. Of its nature I know nothing, excepting that on the third day a number of people landed from the steamer, and, although apparently taking no hostile steps, were fired upon. Two men were killed and one severely wounded. The China then started for Shanghai, where she arrived after an absence of about two weeks.

Before the departure of the expedition, Mr. Jenkins had told me that he was about making a visit to Corea with a French priest and Mr. Oppert, to open negotiations, which he said were invited by the Corean government, looking to the sending of an embassy to Europe and America for the purpose of explaining the treatment of the French missionaries in 1866, and of the crew of the General Sherman. After his return he told me of the real object of the expedition—to exhume the bones of a former king, and to hold them, to force a large payment of money. He at the same time declared that he was innocent of any knowledge of the purpose until after sailing from Nagasaki, when it was too late to leave the vessel.

I was not at all satisfied with this statement, and set to work to sift it. The result of my inquiries was a conviction that Mr. Jenkins ought to be put on trial.

I accordingly instituted legal procedure against him, as seen in the above-mentioned report of the Gazette, resulting in his acquittal.

The indictment as noticed charged him with setting on foot an expedition, &c. I did not feel authorized to take jurisdiction of anything done outside of my consular district, but had I been authorized to do so, the result on the evidence gleaned must have been the same.

You will notice that the verdict is a simple acquittal. This is equivalent, under our rules, to the Scotch verdict *not proven*. For while the evidence would not at all justify a conviction, it left an unfavorable impression on my mind, and with the associates. The presence of the accused with the expedition, his furnishing a large amount of money, although ostensibly this was a loan, and a large quantity of arms; his failure to indicate that he remonstrated when told of the real purpose of the expedition, and his reliance on the weakness of the prosecution rather than on the strength of his own case, all conspired to prevent us from giving him a verdict of honorable acquittal. But it was completely evident that not he, but the French priest and the Hamburgher Oppert were the persons most concerned.

I presume that no future steps will be taken. The evidence given is not sufficient to enable the consul general for Prussia to institute proceedings against the master and crew of the steamer. The French priest has wisely gone off from Shanghai. The Hamburgh consul has not sufficient judicial powers. So the persons who set on foot this disgraceful expedition will all go clear, and an offense which must be ranked in the opinions of the Chinese and of Coreans, who have, I believe, common ideas of the sacredness of burial places, one which might have resulted in severe loss of life, and which cannot but grievously interfere with efforts to open relations with Corea, will remain unredressed.

As I understand, under our law our people can be punished in the respective consular courts in China for setting on foot expeditions such as these. For their offenses, however grave, committed outside of China, even should they go from hence with full preparations, and return with their booty in their hands, they cannot be punished here.

If my opinion is wrong on this point I should be glad to have it corrected. If it is right, I respectfully submit that the premises require legislation.

It will be expensive to send such offenders to the United States for trial, and perhaps impossible to send witnesses. On the other hand, there seems no reason why jurisdiction should not be granted to the consular courts.

I have the honor to be your obedient servant,

GEORGE F. SEWARD.

Hon. S. WELLS WILLIAMS,
*United States Chargé d'Affaires.*

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B.

## COURT OF THE UNITED STATES CONSULATE GENERAL.

(Before G. F. Seward, esq. United States consul general, and associates.)

THE UNITED STATES *vs.* F. H. B. JENKINS.

Mr. Eames for the United States government.

Mr. Hannen and Mr. Harwood for the defendant.

The indictment charged the defendant in eight counts with having, in concert with others, prepared an unlawful and scandalous expedition, having for its object the exhuming of the remains of a dead sovereign, or of some other person or persons in the Corea.

Mr. Hannen raised a preliminary objection to the indictment. The gist of it was intent to exhume. This was not necessarily an offense except the exhuming were to be committed within the jurisdiction of the law. In Russell on Crimes, vol. 1, p. 629, the whole reason why taking up a dead body was an offense was given, namely, that it was an offense against decency; but this principle could not be universally applied to other

countries, or it would have to be held that the taking away the Egyptian mummies was punishable. He submitted, therefore, that the mere exhuming of a dead body was not an offense unless it was so made by the law applying in the country where the act was committed. Secondly, he objected that as the indictment accused the defendant of entering upon an expedition, the offense must be against the law of the country prosecuting; and it could not be held that exhuming a body in the Corea was an offense against the peace and dignity of the United States, as alleged. Again, the indictment ought to have laid the charge as being against the laws of the Corea; as even if exhuming is against the laws of the United States, it must be shown that it is against those of the Corea. As illustrative of this view, he would suggest the case of a conspiracy to assist a Turk to commit an act of bigamy, which would not be an illegal act in the country where it was committed. There was also the case where an act might be lawful but the means taken to attain it unlawful. If this was intended to be relied on, then it ought to have been explained in the indictment. (Russell on Crimes, vol. 3, p. 149.)

Mr. Eames, in reply, said that the objection taken by his learned friend was one always raised in cases where a new offense was tried, the attempt being always made to show that it was not a misdemeanor. The definition of a misdemeanor as given by Russell amounted to anything contrary to or injurious to the public morals, and it was also a misdemeanor to incite another to such an act. In Archbold's Criminal Practice, it was laid down that an indictment for misdemeanor at common law lay in all cases where an attempt was made to commit a criminal act; and an action would lie for any offense which came within the definition. The learned counsel cited a case from the Massachusetts Reports in support of this, where a house had been let with the object of being devoted to an immoral purpose, and in view of the design it was held to be a misdemeanor.

With regard to the specific objections raised, the learned gentlemen observed, first, as to the question of its being necessary to prove that the action was illegal according to the laws of the Corea, it was so well known to be contrary to everybody's ideas of right, and to be such an invasion of the feelings of the relatives of the deceased, that it did not require any proof to show that it was contrary to public morals. Secondly, with regard to the suggested bigamy, if the bigamy was charged as illegal the case would hold. The indictment had been made more full than usual in the United States consular court; there the rule has been as much as possible to avoid mere technicalities. It would of course be necessary to prove the offense as laid, and this would be done by showing the nature of the expedition.

Mr. Hannen agreed with the first portion of his friend's remarks in reference to the definition of misdemeanors; but his argument was that the charge was not, as in the case cited, of conspiracy to do what was acknowledged to be wrong and against the public morality. The fact of exhuming a body far out of the dominions of the United States could not be held to be against the public morals. This the learned counsel for the prosecution assumed, forgetting that exhuming was a thing done every day legitimately in China, and repeatedly done in Egypt, in a way which no one would hold to be a misdemeanor. In regard to the necessity of alleging the act to be illegal, it must be alleged to be so not only according to the customs of the Corea, concerning which his learned friend admitted it was impossible to speak, but also according to the laws of the United States. To point out that what is charged as a new offense was not a misdemeanor was surely to take no idle technicality. It was a grave matter if an act was charged as an offense which was none at all, and the court were bound to see whether it was a legal crime, and not content themselves with setting it down as such, however much it might be against their feelings for the moment. Such a course must lead to gross abuses.

Mr. Eames suggested that the court would be able to determine the force of the objection.

Mr. Hannen suggested that the associates' opinions, he understood, should also be taken.

His honor said it was not the practice of the court to take the associates' opinion on any points of law. They could not be expected to be familiar with law. And moreover, there could not be any sufficient opportunity for consultation. He was not disposed to admit the objection taken by Mr. Hannen; as in charging any crime committed in China, the same objection might be taken if the indictment failed to set forth that the crime was contrary to the laws of China. In none of the consular courts had this ever been considered necessary, and it had always been held by the United States consular courts that it was sufficient if it were shown that the offense was contrary to the laws of the United States. With regard to its being against the laws of the Corea, that was a fact which should be adduced in evidence rather than now. If the defendant were shown to have gone away in such a manner as proved that he anticipated a necessity to resort to force, or danger, the attempt might result in loss of life; it could hardly be possible to urge that the expedition could be for a lawful purpose.

Mr. Eames then proceeded to open the case for the prosecution; and premised that

although not officially appointed as government prosecutor, he appeared only to discharge a duty of a public nature, and would personally be as glad as any one if the innocence of the defendant were shown. The law having been so far disposed of, he pointed out that what the court had to consider was whether the act of the defendant was opposed to public morality; and he thought that their feelings of propriety could not be shocked by an attempt such as had been made to exhume a body. It would be shown that the steamer *China* was chartered, and a smaller one as well; that they went to Nagasaki, supplied themselves with arms and ammunitions; went up the country armed, and after an eight hours' march went to a grave and set to digging, giving up the attempt only when stopped by some stones. There was some show of fight, although it seemed only pretended, but still showing the inimical nature of the acts; and that those engaged in them knew them to be illegal and opposed to the Corean's sense of propriety as much as they would be to that of Englishmen or Americans.

The only point which was doubtful was how far the accused could be connected with the affair. It would, Mr. Eames believed, be shown that he had furnished funds; but this was not sure, as one of the witnesses, a banker, thought it improper to state the circumstances except upon compulsion. After returning from the expedition to the grave, it seems they went ashore again to get provisions and were fired upon, one man being killed and another seriously wounded; and it appeared the accused had told this man he would provide for him here. If it were proved that defendant was instrumental in getting up the expedition, the only question to consider would be whether the action were contrary to good morals, and the evil effects which would result towards people our inferiors in strength were manifest if such an offense could not be punished; for instance, there would be no means of preventing expeditions for smuggling and aiding in the civil war in Japan being organized here. We look to ultimately obtaining friendly intercourse with the Corea; and actions such as this must strengthen their ill-will against us, and confirm them in the opinion that we are barbarians. The whole expedition was characterized by great deliberation, and its object seemed evidently to be illegally and clandestinely to exhume a body for the purpose of obtaining profit and advantage. Mr. Eames then called

ERNEST OPPERT. Some time last spring the steamer *China* was fitted out for the Corea. I made the arrangements. That is the charter-party, bearing my signature, (put in.) The purpose of the expedition was to conclude treaties and possibly obtain an embassy. Mr. Jenkins among others left in the *China*. He had nothing to do with getting up the expedition. He lent me some money, that was all. He knew that my purpose was to conclude treaties and get an embassy sent, but nothing more. I went up into the country. I decline to say what I did there. Mr. Jenkins did not know what the purpose was, either when we left Shanghai or Nagasaki. There were 21 Manillamen and some 100 or 120 Chinese. I took them to have some sort of protection. I knew it would be necessary to land to make the treaties. They were not concluded. We took no arms from here. I bought a few arms from Mr. Jenkins in Nagasaki. There were no particular stipulations made as to payment. It was to be in part out of the profits of the expedition; that is to say, if we had concluded the treaties we could have made some contracts for goods. I had reason to believe the Coreans would enter upon the negotiation. There were a few small guns on board, belonging to the ship. We had no fighting. At one place we fired into the air merely to show we were armed. I am bound to pay to Mr. Jenkins the 5,000 taels he lent me, and also the price of the arms. I told Mr. Jenkins I would give him, for the *Shenandoah*, any charts or information required. They were not applied for. Shortly after I saw Mr. Jenkins, and he consented to come, as he wanted a trip. My object was to have some one on board who could read Chinese. He went merely as a passenger. He had no interest in the expedition. If we had made the contracts for goods which we anticipated he would have had a share in them. Mr. Jenkins knew nothing whatever of the arrangements as to how the treaty was to be made before leaving.

*Cross-examined.*—There was no special agreement as to how the arms were to be paid for. I never said to Mr. Jenkins that the expedition was to derive direct benefits. It was collateral advantages that we looked for. The 5,000 taels were a private loan. That (shown) is Mr. Jenkins's passage ticket. Mr. Jenkins did not go on shore, or participate in anything done there, and it was not till after we left Nagasaki that he knew any details of the expedition.

H. A. K. MÖLLER. I am master of the steamer *China*. I signed that charter-party, (shown him.) It is for a trip to the Corea. We left here about the 30th April. I heard nothing of the objects of the expedition. I do not think it unusual for a charter-party to agree for payment at so much per month, and also freight on specie. There were some ten Europeans with us, among them Mr. Jenkins. We went first to Nagasaki. We remained there two days, and took in coals and a couple of cases, I think containing muskets. We then went to the Corea, first to Prince Imperial gulf and the Prince Jerome gulf. I do not know exactly how many boxes were taken on board. We remained in the Corea ten days. I went ashore once or twice, for an hour or so. I did not go up the country. The charterer and the men he had with him did. They took

muskets with them. They left at night in a small steamer. They left at about 2 or 3 a. m. on Sunday morning, and came back about noon. There was a thick fog at the time. I had no conversations with Mr. Jenkins. I heard no disputes between him and the charterer.

*Cross-examined.*—Mr. Jenkins did not go ashore, nor did he interfere with the management. I looked upon him simply as a passenger. He expressed anxiety to get back, complaining of want of time. The *China* is under the North German flag.

*Re-examined.*—I deposit my papers at the Prussian consulate.

Mr. Hannen objected, that as the indictment charged the defendant with preparing the expedition *in and upon* the China, the matter was clearly without the jurisdiction of the court. The vessel was legally Prussian territory.

Mr. Eames considered this a somewhat novel position. He had yet to learn that a *passenger* on board a vessel in port in Shanghai was not amenable to his authorities. If he belong to the crew, it would be different.

Mr. Hannen hardly thought the point was novel. This was not an American but a Chinese port; and the jurisdiction would devolve upon the Chinese if it did not by treaty belong to the nationality of the ship.

His honor said this question had arisen before he had been three days in Shanghai, and he had referred it to his superior, who had been disposed to support the view that an American in such case would be amenable to his consulate. He must, therefore, thus rule the point; but Mr. Hannen's objection should have due weight attached to it.

W. WINTER. I am mate of the *China*. I was on board on her late trip to the Corea, about May. We went from this to Nagasaki. We there took in coals and ten cases. I did not know what they contained. From Nagasaki we went to the Corea. There were about 150 on board. There were, besides the Chinamen, Manillamen, and crew, three Europeans, Mr. Jenkins, Mr. Oppert, and a priest. Remained at the Corea ten days. Mr. Oppert and the priest went ashore.

Mr. Hannen here objected to questions concerning acts done after leaving Shanghai, as the defendant had not yet been connected with the expedition.

Mr. Eames admitted it might be a little irregular; but he asked the question because the *China*, as he was informed, wanted to get away. Under the circumstances, he would ask the witness to wait, and recall him as to the point.

W. SHULTZ. I am carpenter of the *China*. I went on the expedition to the Corea. There were on board Mr. Jenkins, Mr. Oppert, and the French missionary.

YEH-SU-DONG. Some time in April I was engaged to go on board a steamer. Mr. Jenkins engaged me. He told me he wanted me to assist in Chinese public business. He said it was to be done at Chefoo. I went on board the steamer. I do not know where the steamer went to. She stopped at the mouth of the Yangtaze; took in tow a small steamer, and went to Nagasaki. The steamer left there; I did not know where for; but it arrived at a country called the Corea. Mr. Jenkins was on board. He engaged me for two or three weeks. Mr. Jenkins did not say what public business he wanted me to do. I did none whatever. I had nothing to do with the Chinamen on board. I did not see my master talking with these men. I saw arms given to the men. I do not know who served them out. I do not know English, and therefore could not understand what went on. I did not see any one tell them how to use these arms.

*Cross-examined.*—I was only to do Mr. Jenkins's business. I did not go on shore, nor did Mr. Jenkins.

CHING A-BAY. I was on board the *China*. Mr. Oppert asked me to go and get eighty coolies. I did so. Mr. Jenkins was on board the steamer. Mr. Oppert gave us our instructions. I received no instructions from any one else. I saw some boxes come on board, and subsequently they were opened and muskets given to each man.

Mr. Eames asked whether any instructions had been received from defendant; and Mr. Hannen again objected, on the grounds that defendant had not yet been connected with any conspiracy. It was necessary first to show the existence of the conspiracy.

Mr. Eames observed that the accused had been proved already to have accompanied the expedition throughout. It was now necessary to show the purpose with which he went.

I received instructions from no one but Mr. Oppert. He served them out, and told the coolies they were not to fight, but merely to take them. The coolies could not use them. No one instructed them.

Mr. Eames said he would now have to ask some questions which might possibly be objected to by his friend, as he desired to get at some evidence which it would be difficult to arrive at without a witness called Chow-Ming-Yuen. He thought, however, he could now go on to prove the *corpus delicti*.

Mr. Hannen said his friend was right; but the *corpus delicti* was not in the Corea, but here; he should first show the conspiracy here, and after that what was done in the Corea.

Mr. Eames pointed out that the management of a conspiracy was often intrusted only to one man, though others might be connected with it. He observed that if a

man got into a boat in a creek which ultimately engaged in plunder, each act from the time he entered the boat to the time of the robbery would tend to show his intent.

Mr. Hannen held there was no evidence as yet as to the connection of the defendant with a conspiracy. On the contrary, that given proved distinctly the exact opposite. In order to convict in a case of conspiracy it was necessary to prove, first, the existence of the conspiracy; secondly, that the defendant was a member of it; and thirdly, that he acted in furtherance of the design.

Mr. Eames did not deny the correctness of this law; but he thought the court the right judge how far the evidence proved these points.

His honor held that his being on the steamer established some connection between him and the things actually done. It was difficult, in a court constituted as the United States consular court, to refuse to admit evidence when by so doing an end would be put to the trial. He was to decide cases brought before the court in conjunction with his associates, and he could not consent to make a ruling that would take the general matter out of their hands.

Mr. Hannen would not object to the evidence after the conspiracy was proved.

His honor ruled that a presumption of the conspiracy was shown by the facts deposed to.

*(Evidence continued.)*—After leaving Nagasaki, we went to a place which I do not know, not having seen it before. I went with my master, and some foreigners and Manillamen, on board the small steamer. There were some 30 or 40. Some were men whom I took for seafaring men. The large steamer anchored outside and the small steamer entered the river. We went some 60 li up the river, and then 10 or 12 li overland, and arrived at a spot. We carried with us four spades.

There was an elevation of earth, with each side a stone slab. I do not know what the place was. We commenced digging. We continued the excavation till we came to some heavy stone; when we came to it, having only spades, we had to abandon the operation, and returned to the small steamer and on her back to the *China*.

*Cross-examined.*—Mr. Jenkins had no business with me, or I with him, as I had been engaged by Mr. Oppert.

SIEN-PAN-LING. I left here some time last spring, in the *China*, to go to Japan. Mr. Oppert engaged me to go to Japan, and to a place that had not been opened. I went in no particular capacity. My ordinary vocation is that of a shroff. The only foreign passengers were Mr. Oppert, Mr. Jenkins, and a French priest. We went to the Corea. Some of them went on shore. We objected to going when so ordered. Mr. Jenkins did not order us to go. I can speak a little English. Nobody else but Mr. Oppert gave me orders.

*To the court.*—The cases came on board in Nagasaki; but I did not know, otherwise than by hearsay, what was in them till they were opened. After getting back there was some difficulty about the payment of wages, and I went to Mr. Jenkins to ask about it. Mr. Jenkins had nothing to do with it. I only consulted him, and he said my master was soon coming back from Ningpo.

SUN-KEE. I went in the *China* to the Corea; I was told by Mr. Oppert that there was business to be done. We went to Nagasaki. We there took on board some cases. There were several. I did not know what was in them. They were opened and the contents distributed to the coolies; but I did not see them given out. I did not see the marks on them. I went with the coolies when they landed, from 12 to 1 in the morning. I can speak English a little, and a Ningpo man also interpreted. We went some distance and met several Coreans. We were accompanied by a French priest, who spoke to them in their language. The coolies then fired in the air, and after a little passed on; we went further, and after resting at a species of temple, we went to a grave, and we dug down till we came to stone, through which we could not penetrate. I saw Mr. Jenkins on board the steamer when we were going ashore. He did not advise us to abstain from doing so, nor did he interfere in any way.

*Cross-examined.*—I expressed my unwillingness to Mr. Oppert to go ashore. I saw Mr. Jenkins on board at 12 o'clock before we left.

*To the court.*—The men were arranged to receive the guns, and Mr. Jenkins was moving about here and there.

CAPT. MÖLLER, (recalled.) The arms were distributed to the coolies. I really do not know who gave them. The small steamer was manned by my chief officer, chief engineer, and one man. I had no idea what they were going after. I was on deck at the time the small steamer left. I did not go on the expedition into the country. I heard no dispute or disagreement with Mr. Oppert.

*Cross-examined.*—The small steamer was picked up in Shanghai.

*Re-examined.*—The charter money has not, I believe, been paid. There is something due.

*To the court.*—We reached the Corea at 10 p. m. on Friday, the 8th April. The expedition started for the interior the next night, say about 28 or 30 hours afterwards. We moved further in at 10 o'clock of the morning after our arrival. Nobody left the steamer before the expedition left. On Saturday afternoon the French

clergyman got two sanpans, after speaking to the natives on shore. This was about 6 o'clock. They ordered them to be taken. I cannot say positively that they were taken against the will of the Coreans, but I think they did not quite agree as to terms.

R. HEINSSEN, (charter-party shown to him.)—Mr. Oppert is the charterer. He has not any money to my knowledge. I received one-half the money, and gave the captain instructions to receive the balance on his return. Mr. Jenkins did not himself pay anything on account of the charter. The check was made out to him, and indorsed, I think, on the back. I had no other agreement than the charter-party. I looked to that and Mr. Oppert alone. There were some arms on board, which we took in virtue of the charter-party. These were sent to Hong Kong in the Benares, and lost. There is due about $3,600. I do not think Mr. Oppert can pay it without assistance. I wanted an extra sum for the charter because the ship was going to a non-open port. I knew nothing of the nature of the expedition. I expected the French missionaries would pay the charterer some compensation. I cannot say positively whether Mr. Jenkins was in the office when Mr. Oppert paid me the check.

*To the court.*—The check I received was for 5,000 taels. The first payment should be $4,000. I returned to Mr. Oppert in cash $900 or so, and made payments to his order to balance.

Mr. WINTER, (recalled.)—Some Chinese, Mr. Oppert, the priest, myself, and second mate went in the small steamer. I remained on board when the rest landed. Mr. Oppert requested me to go—no one else. The *China* arrived on the 7th, and the expedition left next day at 12 or 1 o'clock. Mr. Oppert superintended the operations. Mr. Jenkins was about, but did not assist. We took two Corean boats. We got to our destination about 1 o'clock in the afternoon. I do not know where Mr. Jenkins was when the steamer went off and got the boats. I did not see him noticing them. The arms were served out the same day we arrived. He was on deck during the operation. He said nothing about it. We were 58 hours on the expedition up country. I heard no disputes between Mr. Jenkins and the other gentlemen on board.

*Cross-examined.*—Mr. Jenkins did not serve out the arms. His being on deck was accidental.

Mr. Eames here suggested that, if the court saw fit, he would propose to adjourn the case for the evidence of Chang-Man-Yuen; but it appearing that witness had gone away to Tsung Ming, and that it would take some days to find him, his honor decided not to allow such adjournment.

Mr. Eames then summed up his case, saying he had little to add to the remarks he had already made. The exhuming of the body could not be regarded otherwise than as a gross outrage, if not on the laws at least upon the feelings of the Coreans. The only point of doubt was the connection of the accused with the expedition; with regard to which it was to be borne in mind that he was on the steamer from the first, and that he had lent a sum of money to Mr. Oppert. It was beyond doubt, therefore, that he was on the expedition and had furnished funds. Mr. Heinssen had said he was not sure, but he thought Mr. Jenkins was in his office when the payment of the 5,000 taels was made. If it were necessary in a case of conspiracy to bring specific proof against each of those concerned in it, it was clear that in almost all cases the subordinates would escape; and it would appear that the presence of the defendant without his making any remonstrance was enough to show his complicity. It was scarcely to be supposed that he was ignorant of the terms of the charter-party, which showed completely that something extraordinary was contemplated. It was not likely he would lend the money to Mr. Oppert unless he expected some return of which nobody knew anything; it would certainly not be a compliment to the accused to suppose he did not know how the matter lay; and his being in the expedition, his lending the money, and his sale of the arms at Nagasaki, were strong *prima facie* evidence that Jenkins was equally concerned with Oppert, though the latter was the leader. One fact was very noticeable, and it seemed to be an instance of those cases where very shrewd people are at times a little too adroit. He made no interference, when to all reason he ought. It would certainly seem natural, when he saw the arms being distributed to the 130 coolies, that he would make some objection. Moreover, he was perhaps a little over-doing the matter with respect to the passage ticket. Mr. Oppert seemed to be the stalking horse. He came in and gave just sufficient evidence to screen the defendant and then shut his mouth. It could not really be supposed that the object of the expedition was innocent. Mr. Oppert spoke of concluding treaties, but this was not proved; as, although he said he had the draughts of them, it did not appear that he had applied to any mandarin. It was also impossible, as before observed, to imagine that Jenkins was quite ignorant of the object. Returning to the point raised for the defendant, namely, that he had nothing to do with the expedition, his making no objection was *prima facie* evidence of his complicity. The offense supposed was that of making preparations for exhuming the body of a sovereign of the Corea, or some person unknown. It had, however, only been proved that attempts had been made at exhuming, and did not appear from the evidence whose remains occupied the grave. If the court could believe that Mr. Jenkins had been imposed upon; that he lent Mr. Oppert the 5,000 taels and trusted him

with the 10 cases of arms without security, and was not concerned and interested in the expedition, then it was their duty to acquit him; but if he had aided and abetted in the preparation of an expedition having for its object the carrying out of an act against good morals, the fact that the act was committed beyond the jurisdiction of the court had nothing to do with the question, the act itself being proven only to show the *intent* with which the preparations and preliminaries were entered into.

Mr. Eames had already replied on the point of the nationality of the steamer. This would apply if the accused were one of the crew, but not to a mere passenger. If this were held, crimes committed under such circumstances could only be cognizable by a court at home.

In conclusion, the learned counsel thought he had proven a case sufficiently strong to convince the court the defendant had been guilty of complicity in a gross outrage on decency, and on the feelings most sacred in the human heart; and that the deliberation and the extent of the operations aggravated the reprehensibleness of the offense which he had committed.

Mr. Hannen would be able to perform his duty of replying to the evidence in a very few words. His learned friend had complained that his evidence had disappointed him; and in fact, as his case seemed to have broken down, he was disinclined to go on; and perhaps it would have been better if he had not done so. What, in point of fact, was the case? His learned friend thought he could get proof of the offense laid in the indictment out of Mr. Oppert. It was very well to say that he ought to have been the defendant's witness; but he had been called for the prosecution, and was not to be objected to because he did not show quite what Mr. Eames anticipated. His evidence seemed to be very straightforward, and— although of course not bound to criminate himself—he came and stated a series of facts which distinctly disproved any complicity on the part of the defendant. He stated also that the object of the expedition was to obtain the signature to treaties and the appointment of an ambassador. The court would carefully note that while there was no direct testimony of a conspiracy, there was direct testimony on oath that none existed. The latter, it was needless to point out, was the stronger presumption. The learned counsel for the prosecution had laid some stress upon the vast preparation that had been made; and what was it alleged this vast preparation was all for? Why, simply to obtain possession of one coffin. Was it likely that all this would be done for such a purpose? On the other hand, could anyone think that any man in his senses would go with merely four spades to break open a sarcophagus? Certainly, if such were the case, it did not indicate much premeditation. But what actually occurred? Mr. Oppert, it seems, is led by the French priest to infer that he could conclude a treaty with the Coreans. He goes to the Corea, and proceeds up country with some coolies, and commences digging at a place said to be a grave until he is stopped by some stone. From this the prosecution wish to infer a deliberate purpose to exhume; but there was no proof that a body was there at all, and there was also no proof that the digging was for this purpose.

From these inferences a slender chain of circumstantial evidence was educed; but the court would observe that the strength of all circumstantial evidence was not greater than its weakest part. The defendant denied that he knew the exhuming to be the purpose of the expedition; and evidence distinctly disproved that he had any notion of it; and it also showed that it was only after leaving Nagasaki that he was informed in any way of this object of the visit to the Corea.

His learned friend had made a great point of the fact that the defendant did not interfere, and asked why he did not remonstrate. Why should he? He was told that the object in view was only the conclusion of treaties and the obtaining the appointment of an ambassador; and the fact that Mr. Oppert told him he was going away for the purpose of digging at some spot was surely not a thing to make his hair stand on end, and to cause him to set about making a remonstrance; moreover, he was powerless to prevent it had he attempted. The fact, therefore, that he did not interfere, or, as his learned friend had put it, that he had no disputes, did not prove very much.

The court had taken a great deal of trouble to ascertain the exact facts connected with obtaining the sanpans. With respect, the learned gentleman would submit that all that was shown was that the priest did not come to exact terms with regard to them, and it would be hard if this alone were taken as constituting proof of their being obtained illegally.

Mr. Eames had stated that Mr. Oppert's evidence was given with a bias in favor of Mr. Jenkins. Of this there was really no proof. And in regard to the payment of the money, Mr. Heinssen had said that he was not sure whether Mr. Jenkins was present when the check was paid. As to Mr. Heinssen having trusted Mr. Jenkins, because it was not probable he would give the credit to Mr. Oppert, this was a conclusion which did not follow, as he had stated that he understood the French missionaries were in the back ground; and in respect to the passage ticket, this was evidently given merely in the ordinary course, in order to allow Mr. Jenkins to go on board at any time he liked.

Reverting to the legal bearing of the question, the learned counsel summed up the objections which he had raised. They amounted in substance to this: The charge was

that of conspiring in Shanghai to exhume a body in the Corea; and the objections were, that the act was not alleged or proved to be against the laws of the Corea, the evidence having nowhere shown this to be the case; and the fact that a priest thought the steps taken likely to do good, going far to show that those connected with carrying them out were justified in considering that the act was not very serious. If the act was not proved to be against the law of the Corea, defendant could not be convicted; and if a decision were under such circumstances given against him, he hoped he would be allowed the privilege of appealing.

The learned gentlemen then proceeded to make a few remarks upon the full case as it stood before the court. From the whole evidence it appeared clear that the intention was to go to the Corea for the purpose of obtaining the treaties which had been draughted by Mr. Oppert. Whatever may have been intended beside, it was distinctly proved defendant did not know, till he had left Nagasaki, and he did nothing which would show him to be implicated in a conspiracy here. The action taken was stigmatized by the learned counsel for the prosecution as disgraceful, it being to make money by exhuming a body; but as he had said, Mr. Jenkins was a shrewd man of business, and was it likely, if this was the object, he would have embarked upon such a wild goose chase, and would have made such miserable preparation for removing a sarcophagus as merely taking a few shovels? The hypothesis was certainly highly improbable. If such had been the object, better preparations would have been made.

With these remarks the learned counsel would leave the case with confidence in the hands of the court. As regarded its legal bearings, he would beg them to remember that they should not be influenced by their feelings or disgust at the acts alleged; but that they had simply, according to the act of Congress which provided that the court should administer the law, to consider whether they were legal or illegal. In conclusion, he would allude to an argument upon which his learned friend had laid some stress, namely, that such acts as that under consideration would tend to prevent the establishment of friendly relations. Was not such an argument appealing to the court and associates' feelings by their interests, instead of asking them, as they were bound, to decide distinctly what was the law, and to act according to that?

The court was then cleared, and after a short time the following verdict was returned: "I acquit the accused."

GEO. F. SEWARD,
*Consul General, acting judicially.*

Assented to:
A. A. HAYES, Jr.,
L. H. STODDARD,
M. L. SMITH,
R. F. EASTLACK,
*Associates.*

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SHANGHAI, *July* 11, 1868.

The case of the "United States *vs.* Jenkins" was one which undeniably attracted considerable interest, and which, when we come to look at it, is entitled to very little. The evidence before the court disclosed hardly anything of the real motives of the chief actors in the enterprise, and the public are still at a loss to account for an outlay which was considerable, and a risk which was certainly great. Numerous rumors have got afloat as to what the expedition was intended to effect, the favorite theory being that a considerable quantity of treasure was concealed in the tomb of some sovereign of the Corea, which enterprising capitalists were anxious to get at with a view to turning it to some more useful account than lying buried alongside the skeleton of a defunct king. Another idea was that the Coreans nourished a superstitious belief that so long as the body of this particular potentate remained imbedded in Corean soil, there was no fear that the kingdom would ever come to grief or be liable to the attacks of foreign powers, and that with the view of rendering them more amenable to reason, and the blessings of commercial intercourse, it was extremely advisable to borrow this body, and then trade upon the anxiety of the people to get it back again. Others said, however, that Corean ambassadors were anxious to visit foreign countries, and that the *China* was sent to fetch them and to do any trade that offered. The evidence leaves it open to us to single out any one of these hypotheses, or to reject them all. It is not very probable that we shall know what were the real facts of the case, and in truth it does not seem very important, as the signal failure of the expedition, with whatever motive it was set afoot, is quite sufficient, we should think, to deter any one from venturing again upon such a wild and unproductive goose chase. In the mean time, it is enough for us to rest satisfied with the verdict, and the moral effect which the investigation has itself produced. As a matter of law, no other decision could have been arrived at. First, whatever was said by witnesses, suggested by counsel, or thought of by the court, there was nothing that would have justified a tribunal in finding the accused guilty of

the particular charge as laid. The indictment we think was bad in law; indeed, about as bad as it could well be; and if even it could or ought to have been amended, it is extremely doubtful whether the offense as charged could have been brought home to the prisoner. Of what was he accused? Of having conspired in China to exhume a body in the Corea. Now *per se* no one will be rash enough to assert that this is a criminal offense. It may be one. But in order to make it one it must appear on the face of the indictment that exhuming a body is an offense against the laws of the Corea. Of course it is wrong, if even it be not an indictable offense, because it is calculated to hurt the feelings and prejudices of the people of the Corea, and to bring about a conflict in which a great deal of innocent blood might be shed and numerous lives taken. Moreover, no European, or indeed any one, except the Coreans themselves, can have any business to interfere with the tombs of their kings, still less to steal and carry away their bodies; and if it is true that the leaders of the expedition intended and did attempt to interfere with the graves, no one would have regretted their getting handsomely thrashed for their pains. But because it is wrong to do such an act as that alleged to have been contemplated, and because it was also wrong, to use a legal term, to conspire together for such a purpose, it is no reason that a tribunal is to strain the law beyond its true intent and meaning. The chances also of an indictment being framed next time better calculated to hold water will, we think, prevent any one from being insane enough to try the experiment again. The landing of armed men from a ship has been held to be evidence of a piratical act, although the landing was in a country occupied by people with whom Christian nations had no treaties; and in one case, if our memory serves us right, a foreigner was hanged for forming part of an expedition to an island, which, planned with a view to a simple robbery, resulted in the death of some innocent natives.

As we have already said, we see no reason to quarrel with the verdict of acquittal pronounced by the consul general of the United States in the particular case before him; but we are especially anxious to impress upon the minds of enterprising pioneers in that line of country that it by no means follows, because on one indictment a verdict of not guilty is found, on another indictment, a little more artistically drawn, and on evidence a little more carefully sifted, a very different conclusion may possibly be come to. At any rate, fillibustering expeditions of all kinds, whether to annex territory, to force trade, or to inquire into the contents of tombs, are *prima facie* contrary, if not in all cases to the letter of the law, to the spirit of modern legislature both in the United States and in all European countries; and being undeniably wrong and immoral in themselves, few people, we think, will care to risk their personal liberty and probably their lives on the chance of an indictment being drawn with sufficient precision and particularity to hit off the particular offense that may be laid to their charge. Murder, piracy, and robbery are capable too often of very easy proof, and their act is too frequently held by juries to be evidence of intent, to make it worth any one's while to put his neck in a noose from which there is but one escape. The ingenuity of lawyers is great, and in many cases it may be shown on both sides of a case in a way calculated to render the particular object of the game very nervous as to the result; and when the offense charged is one against which the reason and feeling of mankind revolt, judges and juries are apt to look more broadly at facts than it is in the peculiar interests of the accused they should do. If any further expeditions to Corea or elsewhere are planned, we trust that those who engage in them will so act as not to leave any room for doubt as to the propriety of the object in view, and for their own sakes will take care not to jeopardize their necks on the idea that no lawyer can be found to frame an indictment which may possibly meet their case.

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*Mr. Williams to Mr. Seward.*

No. 20.] LEGATION OF THE UNITED STATES,
*Peking, August* 3, 1868.

SIR: I have the honor to send you a correspondence with Prince Kung (inclosures A, B) relating to the existence of a gold mine near Chifu, in the province of Shautung; and his desire to prevent it being worked, and thereby becoming a source of disturbance to that region.

My reply opposes the views taken respecting the treatment of such a discovery, and, so far as I am aware, all the foreign ministers have, in one way or another, urged upon the Foreign Office the necessity of doing something to regulate an enterprise they cannot prevent, and exerting

themselves to establish some kind of efficient control over the mines. The prospect is that before six months have passed there will be thousands of natives and foreigners gathered at these diggings, and their conflicting interests and rivalries will require to be controlled by a stronger hand than can now be found. The necessities of the case will soon compel the authorities to allow the mines to be worked, and then they must establish a joint supervision adequate to the preservation of life and property, if not to the collecting of some revenue.

The examination yet made of the mines is not very thorough, especially of the quartz veins; but the washings in a few localities have yielded enough to excite and reward the efforts of the natives who have flocked in there from the neighboring hamlets. Some of the washings are only 12 miles from Chifu. The Cantonese miners who have returned from California and Australia are likely to gather here in numbers as soon as they learn of the discoveries, and their skill and industry will soon show what is the value of the deposits.

The course of events in Shautung cannot fail to exert a great influence upon the court at Peking in its ideas relating to foreign relations growing out of these discoveries, and you shall be informed of any important change.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Prince Kung to Mr. Williams.*

[Translation.]

JULY 15, 1868, *(Tungchi, 7th year, 5th moon, 26th day.)*

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

It has been reported here that, in the maritime ports of Shautung, near Chifu, where foreigners and natives have usually traded, they have become very closely connected with each other. Very recently, unscrupulous natives and lawless foreigners out of employment have been planning to go into the country to privately dig for gold ore and melt it for their own use.

It is well known that the prohibitions of this government on digging gold are very severe; therefore such persons as may attempt to work these mines illegally will not only do much injury to the prosperity (fung-shui) of the people, but will also, it is to be feared, easily cause great disorders and strifes, whose consequences will be serious.

Orders have accordingly been sent from the Foreign Office to Tsung, the superintendent of the three northern ports, and to Ting, the governor of Shautung province, to give orders to the local authorities in that region to inquire in what places gold dust has been found usually, and to strictly interdict natives and foreigners from working them.

I have also now to request your excellency to direct the United States consul at Chifu not to allow any Americans to go to these places of their own accord, and to issue orders to this end, as well as to concert measures with the Chinese authorities to disperse these men and stop their proceedings. This will prevent disorder, and show a desire to preserve friendly relations. Furthermore, it will be still more to the purpose if such idle foreigners as are at Shanghai, intending to go ashore, [to the mines,] that the consul stationed there also issue his injunctions to stop their going thither; and that you will take measures in this matter is the object of the present communication.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

B.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, July* 30, 1868.

SIR: I have had the honor to receive your dispatch of the 15th instant, relating to the proceedings of certain lawless natives who have leagued with others from abroad to stealthily go into the country about the port of Chifu, in Shautung, to dig for gold, in the expectation of enriching themselves; and expressing your fears as to the results on the prosperity of the region, and that disturbances will arise in consequence of these acts, which you wish me to repress and prevent, as far as possible, by enjoining on the consul there to act in concert with the authorities in all measures to keep the peace, &c.

I have also heard it reported that gold mines have been opened in certain districts in Shautung, near Chifu; and there are serious grounds for apprehending that multitudes of needy, reckless people from all countries will swarm towards these regions, in their desire for gain, and disturbances ensue which will not be easy to repress. In view, therefore, of the exigencies of the case, it appears to me that the wisest course for your imperial highness to adopt will be to establish good regulations for immediately working these mines, and thereby the imperial government will itself derive the highest profits from them.

The riches which the Creator of all things has deposited in all countries in the world in their soil, are designed by Him for the benefit of mankind; and it is perfectly just, therefore, that man should obtain these gifts of Heaven. It occurred in the United States about 20 years ago, when some gold and silver mines were discovered, that many thousands of people flocked there to dig them, and regulations were adopted for their governance without delay. The result has been that no commotions have arisen, and no one can say that the prosperity of the country has been injured in any way. In truth, the prosperity of all lands, so far as it depends upon their natural resources, is owing to the operation of similar causes.

If there are mines of gold and silver in the empire, it will be the most advisable course to appoint an intelligent officer to oversee them, and he can examine those now discovered in Shautung, and learn their condition, and whether they are worth working or no. This plan will be alike advantageous to the people and their officers, and thus benefit the whole country. If this is generally known abroad, too, those who may come from other countries will be bound to observe the rules laid down, and their unauthorized diggings in the mines restrained. If, on the contrary, no rules or measures are adopted, people will go to these regions to dig for their private benefit, and ere long a state of things will arise which his Majesty's authorities will not be able to repress, and foreign consuls and others be entirely inadequate to remedy.

I therefore earnestly recommend to your imperial highness to take measures to work these mines under proper regulations, in order to prevent future evils, which may develop into troubles and dissensions that cannot easily be removed.

In compliance with the request in the dispatch now received, I have sent orders to the United States consul at Chifu to forbid Americans illegally going to these mines, and to do all he can to prevent trouble arising from this quarter.

I have the honor to be, sir, your imperial highness's obedient servant,

S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG,
*Chief Secretary of State for Foreign Affairs.*

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*Mr. Williams to Mr. Seward.*

No. 21.] LEGATION OF THE UNITED STATES,
*Peking, August* 4, 1868.

SIR: I have the honor to submit for your consideration a correspondence with his excellency Baron Rehfues, the minister of the North German Confederation to China, growing out of the limited powers conferred upon the German mercantile consular agents in China, which prevents them from deciding cases brought into their courts. The case occurred at Tientsin, and was brought up by the United States vice-consul there to test the question of equality of powers by the consular authorities of the two countries. I respectfully commend it to your attention.

On receiving Baron Rehfues's dispatch, (inclosure A,) I directed Mr. Meadows (inclosure B) to try the case, "Talee *vs.* Manchu," on the ground that the jurisprudence of one nation could not be made amenable to the ideas or rules of another nation, and so informed the former, (inclosure C.) I, however, availed myself of the reply to explain my reasons for disapproving of the restrictions laid upon the jurisdiction of the German mercantile consular agents, and to show the inconveniences practically resulting therefrom.

The other letters, (inclosures D, E,) besides further explaining the case, refer to a question of consular usage, upon which I request your decision. It is the custom in the Prussian and British consular services, and seems to be also in that of other European nations, that when a mercantile consul fails in business, he must immediately demit his official functions, or if he omits to do so, he is presently superseded. I can find nothing that bears upon this point in the Consular Regulations, and should be glad to learn what is the custom in this particular in the United States service, for it frequently happens in China that merchants are the only persons who can be got to fill those consulates which are not salaried.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Baron Rehfues to Mr. Williams.*

[Translation.]

TA-CHIAO-SZÈ, *June* 21, 1863.

MONSIEUR LE CHARGÉ D'AFFAIRES: I have the honor to send you herewith a copy of the judgment that the vice-consul of the United States at Tientsin gave on the 8th of this month, in the case of the bark Talee against the steamer Manchu, the reason of which is wholly opposed to all the principles of civil and international justice. Mr. Meadows says in his judgment, that American subjects and those of the North German Confederation are not on a footing of perfect equality, because the Prussian consul is not authorized to give judgment in a similar case; and that consequently it was his intention not to admit the plaints of the subjects of the North German Confederation against American subjects.

It is not necessary for me to explain to you, sir, that Mr. Meadows has acted in this decision on the totally erroneous supposition that Americans and others cannot find any basis before the Prussian consulate, in relation to the reclamations which they may wish to bring there against Germans. This supposition is wholly false.

Doubtless there does exist a difference between the position of the Prussian and American consulates at Tientsin, but it is only one of form. The Prussian government, being of opinion that merchant consuls, like Mr. Spohn and Mr. Meadows, do not possess the requisite knowledge of law to give decisions in cases, (as Mr. Meadows has shown in this instance,) have not accorded this power to such as they. The consular regulations prescribe the procedure in their case to be simply to receive the complaints against German subjects, make a full examination of them, and forward the papers and testimony to the nearest judge.

The course to be taken at Tientsin is in practice as follows: When an American, or any one else, has a complaint against a German subject, he must address the Prussian vice-consul, who will receive it and make a preliminary examination, collecting all the documents relative to it. These he will then send to Mr. Tettenborn, who is a lawyer and the judge, for him to pronounce the sentence. This course is rather complicated, it is true, but it possesses the advantage of assuring the contestants more fully against the errors and ignorance of merchant consuls in legal matters. There is, therefore, at Tientsin, no denial of justice, however much Mr. Meadows may wish to have it believed, and even to establish it in a judgment.

It seems to me sufficient to apprise you of the serious error into which Mr Meadows has fallen for you to take measures to reverse, by the means at your disposal, a judg-

ment which is not only contrary to all the principles of civil and international justice, but not at all in harmony with the amicable relations which exist between our governments. I need not add that, if this judgment be maintained, I shall be forced to bring it to the knowledge of the chancellor of the North German Confederation; and, while awaiting his instructions, to enjoin the Prussian consuls in China not to attend to the reclamations of Americans against the Germans residing in this land.

In conclusion, I beg that you will inform me, under these heads, whether—

1st. The laws of the United States permit a consul in bankruptcy to exercise the functions of a judge; and whether,

2d. A vice-consul is authorized to decide a case of a certain amount, without the aid of two assessors?

I seize this occasion, sir, to renew to you the assurance of my highest consideration.

REHFUES.

Monsieur WELLS WILLIAMS,
*Chargé d'Affaires des Etats Unis d'Amerique.*

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*Copy of plaint of P. Thomsen.*

UNITED STATES VICE-CONSULATE, TIENTSIN.

I, Peter Thomsen, master of the bark Talee, do hereby declare on oath, that on the morning of the 5th June, 1868, while my vessel was in the Pei-ho, the American steamer Manchu ran into her and damaged her; that I later had a valuation made of the damages, which were fixed at $200; that I applied to the master of the steamer to pay that amount, and that he refused to pay my claim.

I therefore have now to pray that you will summon him before you, to satisfy my claim for damages as stated above.

P. THOMSEN.

Taken before me, this 8th day of June, 1868, at the United States vice-consulate, Tientsin.

JOHN A. T. MEADOWS,
*United States Vice-Consul.*

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*Copy of consul's decision.*

CASE OF TALEE vs. MANCHU.

UNITED STATES VICE CONSULATE COURT,
*Tientsin, June* 8, 1868.

The parties in the case being all present, the judge of the court opened the proceedings by reading over the plaint. Captain Clark of the Manchu, and the defendant, objected to the case going on on the ground of the Prussian vice-consul being unable to give a decision on similar cases being brought before him; and he therefore considered it would be only fair if the vice-consul of the United States did not entertain the present case; American citizens and subjects of the North German Confederation were, under the present system, not on the same footing of equality as to attaining redress and justice.

The judge then stated to the court that he was of the same opinion as Captain Clark, and that he consequently had to inform the parties in the case that he could not entertain the plaint; and that it was his intention not to entertain any plaint against American citizens on the part of North German confederate subjects, till the vice-consul of the North German Confederation at Tientsin was empowered to decide cases. At present the vice-consul of the North German Confederation could only take the depositions and evidence in a case, and could not decide it; the written evidence had, after that, to be sent down to Shanghai to the consul-general, for examination and for the case to be decided.

A case occurred here last year of a North German Confederation vessel, the Japan, running down a junk loaded with a valuable cargo; and the Chinese connected with the lost cargo, after undergoing a preliminary examination here by the vice-consul, and after reference to Shanghai of the evidence in the case, were called upon finally to go to Shanghai, 700 miles from Tientsin, at considerable expense and inconvenience, to be further examined by the consul-general, before the case could be decided. In many cases, plaintiffs would rather prefer suffering the loss of their claims, or not obtaining redress, to proceeding to Shanghai to continue their cases. Justice would not virtually be obtainable under the present vice-consular system of examining and deciding cases.

JOHN A. T. MEADOWS,
*United States Vice-Consul.*

B.

*Mr. Williams to Mr. Meadows.*

LEGATION OF THE UNITED STATES,
*Peking, June 25, 1868.*

SIR: I have just received a communication from Baron Rehfues, the minister of the North German Confederation, inclosing an official opinion of yours, made on the 8th instant, *in re* Talee *vs.* Manchu, in which you decline to adjudicate the case on the ground that "American citizens and subjects of the North German Confederation were, under the present system, not on the same footing of equality as to attaining redress and justice," and further state "that you intend not to entertain any plaint against American citizens on the part of North German Confederation subjects till the vice-consul of the North German Confederation at Tientsin was empowered to decide cases."

In making this distinction respecting the judicial functions of the consuls of the North German Confederation, as compared with those of the United States, you have made an issue *ex cathedra* that belongs to their respective governments. The jurisprudence of the two nations has been arranged in China in consonance to their peculiar institutions; and in both, we are bound to believe, for the purpose of obtaining redress and administering justice between their subjects. Whatever disabilities and hinderances may appear in the execution of their respective laws, can properly become a matter of reclamation between the governments, with a view to melioration; but you cannot deny all justice in your consular court to a German who comes with a plaint against an American, because of an alleged deficiency in the laws of his country. This is to make our judicial system subject to the torts of other nations, and not one to be exercised on its own merits. If carried out, the principle would soon prevent all international action in China, and destroy the possibility of the comity now enjoyed. If you deem the consular laws of the North German Confederation as exercised in China incomplete for attaining the ends of justice, how much more equitably and firmly might you refuse to hear the plaint of a Chinese against an American, which yet by the treaty you cannot do.

I think that these views will approve themselves as tenable; and I direct you, therefore, to summon the parties in the case Talee *vs.* Manchu to your consular court, and try the case on its merits. I hope, too, that the time which has elapsed since they first appeared will not have brought about changes that will prevent them from again appearing.

I am, sir, your obedient servant,

S. WELLS WILLIAMS.

JOHN A. T. MEADOWS, Esq.,
*United States Vice-Consul, Tientsin.*

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C.

*Mr. Williams to Baron Rehfues.*

LEGATION OF THE UNITED STATES,
*Peking, June 25, 1868.*

MONSIEUR LE MINISTRE: I beg to acknowledge the dispatch of the 21st instant, which you have done me the honor to address to me, respecting the case of the Talee *versus* Manchu, and the refusal of the United States vice-consul at Tientsin to hear the complaint of Peter Thomsen, a German subject, on the ground that "American citizens and subjects of the North German Confederation were, under the present system, not on the same footing of equality as to attaining redress and justice;" and in which you likewise request answers to two questions respecting the functions and disabilities of an American consul.

Allow me here to reply to these two inquiries: 1st, so far as I am able to ascertain, bankruptcy of itself is not a bar to a consular officer in the service of the United States, who receives no salary, continuing to hold his post; and 2d, in all cases of damages under $500, the act of Congress does not require the consul to call in two assessors to aid him; he can do so, however, if he pleases.

I have perused your excellency's dispatch with great care, and as I have no wish to hinder any subject of the North German Confederation from obtaining justice in the consular courts of the United States, I have to-day directed Mr. Meadows to hear the plaint of Peter Thomsen, and try his case on its merits. I hope, also, that he will suffer no injury from the delay.

In apprising you, sir, of this order sent to Mr. Meadows, I beg to add a few considerations upon the remark made in your dispatch that the difference in position between the Prussian consulate in Tientsin and that of the United States is one *seulement de*

*forma.* You lay stress on the want of legal knowledge among merchant consuls; and it is not unlikely, of course, that such a one may not always possess the necessary knowledge to decide a nice point of law; but in such cases, which are exceptions, the right of appeal to a superior officer obviates this incompetency or disadvantage, and secures the parties from injustice.

If the rules of procedure in a consular court are laid down with clearness, they can be followed by any person with a fair education, and the value of his decision can be increased by requiring him to get the advice of assessors. Most of the cases in China consist of damages for injury to person or property, for debts, or divisions of estates, such as require no high legal attainments for their equitable settlement.

But permit me to observe further, that the difference is not merely formal; that when a consul at one port can only receive the evidence of the opposing parties and their witnesses, to send it off many scores of miles to another port, as seems to be the rule in the Prussian consulates, the plaintiffs are not so likely to receive justice, irrespective of the delay, before the judgment is rendered. The value of conflicting testimony can best be decided by him who hears it, as well as the competency and credibility of the different witnesses be better weighed by a judge who watches them as they give their depositions. On paper much of this vanishes; and in no case can a man write more than a portion of the evidence. Some of the energy and distinctness of witnesses must be lost when they feel that they are really talking and acting for one not present, who will, after all, get only an imperfect idea of what has passed. Besides, in some cases the locality of the occurrence has a very important bearing in making up a decision.

Then, further, with regard to the judge himself. He is likely to have a great number of cases to investigate, each of them demanding an immediate decision, in order that the parties shall not suffer more than is absolutely necessary from the delay. One does not doubt that he desires to do even and speedy justice, but his time and strength have limits. If new points come up demanding investigation, more time must be consumed in obtaining further facts.

When the case has been decided, the parties may have all separated and gone elsewhere; the ships left the port and gone from China; the property in dispute may have spoiled or deteriorated; the consul himself departed; a dozen contingencies may have arisen that render it impossible to carry out fully a sentence that at first could easily have been executed.

The case cited by Mr. Meadows of the brig Japan running down a junk in the Pei-ho, so far as I know the facts, will illustrate the inconveniences from delay to which I now allude; inconveniences which, in my view, far exceed the risks and wrongs likely to be suffered by allowing a merchant consul to decide cases brought before him. The same risks were somewhat anticipated when constituting the consular courts of the United States in China 20 years ago, and were provided against by the framers of the act of Congress in 1848; but when it was revised and reissued, in 1860, it was found to need few alterations. The evils suffered in these courts since 1848, through the incapacity, ignorance, or inefficiency of merchant consuls, have been trifling, and I remember no complaint brought before this legation on these grounds. The evils resulting from the other mode of jurisprudence would have been greater.

In your excelleney's dispatch it is admitted that the plan of sending cases to Mr. Tettenborn, as good a lawyer and judge as he is, is *assez compliquée.* Perhaps I have shown that it is more than complicated, and that its inherent delay works a wrong to both parties. I fully agree with you that there is no denial of justice in the theory; but in practice, an American citizen bringing a complaint at Canton or Tientsin, before a consul of the North German Confederation, would not seldom find the delay of sending the documents to Shanghai nearly equivalent to a denial. In some cases, as where the parties all resided at the port, in a suit of debt, for instance, the result would be less detrimental.

In the case before us both the parties happen to be at Tientsin for only a few days. Let me reverse the case, for illustration. If the Talee had run into the Manchu, both parties would doubtless have wished to leave port long before the American plaintiff could have got judgment. If she was detained by Mr. Spohn as security till the damages were assessed by Judge Tettenborn, she might lose as much by the demurrage as by the accident. If she was allowed to depart, the delay to the other party works an additional loss, in settling a simple question that two or three sensible shipmasters, called in on the spot, could have decided in a few hours better than anybody else.

You will pardon me, sir, if I have made these observations with more freedom than is requisite to explain my position. I speak from an experience of 12 years in seeing the workings of the American consular courts in China, and am quite satisfied, on the whole, with their results.

The subject here discussed you may deem to be worthy of referring, for consideration, to those who can have no other desire than to facilitate the settlement of such disputes as the present one at Tientsin, and measurably, at least, to prevent any international disagreements. If I might be allowed to add a suggestion, a Prussian mer-

chant consul might have the power to give a suspensory verdict, to be ratified by the judge, and which the contending parties in the suit could for the time accept as a final one, subject to that ratification.

I avail myself of this occasion, Monsieur le Ministre, to renew to you the assurances of my high respect.

S. WELLS WILLIAMS.

His Excellency BARON REHFUES,
*Envoy Extraordinary and Minister Plenipotentiary of the Confederation of North Germany.*

D.

*Baron Rehfues to Mr. Williams.*

[Translation.]

TA-CHIAO-SZE, *June* 29, 1868.

MONSIEUR LE CHARGÉ D'AFFAIRES: I have had the honor to receive your note of the 25th instant, relating to the case of the Talee *vs.* Manchu, and I have not failed to inform the King's consul at Tientsin of the instructions which you have been good enough to give to Mr. Meadows. While thanking you for the readiness with which you have co-operated to avoid the serious complications which would necessarily have resulted from carrying out the decision in this case taken by the United States consulate at Tientsin, it only remains with me to give you some explanation of the principles in force in Prussia and elsewhere relative to consular functions, which, it appears, are very different from those adopted by the United States. From your note of the 25th, it seems that the consular regulations of the United States allow a consul in bankruptcy to continue his functions. This is not the case in Prussia, and, so far as I know, in other nations too, where they are required to demit their functions as soon as they suspend payment, which was the case last year with the Hanseatic consul at Tientsin, who, having become a bankrupt, had of course to resign his consular functions. Thus it follows that a consul in bankruptcy cannot act as judge, being himself before the court. According to the usages of all nations, Mr. Meadows would not be able at this time to exercise judicial functions. But this only concerns the government of the United States, and I state it simply to indicate the difference which exists in this respect between their practice and that of European governments.

In respect to the principle adopted by the Prussian government, of not granting full jurisdiction to merchant consuls, it has been the result of experience, and of the conclusion that a rather more complicated procedure would be better, and offer more guarantee for the administration of justice, than if allowed to persons wholly without legal education, and consequently liable to commit irreparable mistakes. This principle has also latterly been adopted by most of the European governments, who are of the opinion that out of two evils it is best to choose the least.

In order to remedy the inconveniences which result from the state of things in China, and chiefly those which arise from the distances between the several ports, the King's government has for a long time resolved to grant entire jurisdiction, exceptionally, to the consuls at Canton and Tientsin; it has actually been the case at Canton for two years, where Mr. Carlowitz is charged with judicial powers. At Tientsin it has not been impossible to do so, but on the other hand it has been decided to make it a paid consulate, and has been hitherto delayed only because of the immediate creation of the consulates of the Confederation of North Germany. It is certain that the near completion of the plans of the chancellor of this confederation will alter the present state of things at Tientsin, which have always been regarded as temporary. The case of the Japan, to which you allude, moreover, furnished me with a good reason to urge Count Bismarck to hasten the institution of a consulate at Tientsin.

Hoping that the American government will not delay to follow the example of the confederation, and establish a paid consulate at Tientsin, I seize this occasion to renew, sir, the assurance of my highest regard.

REHFUES.

Monsieur WELLS WILLIAMS,
*Chargé d'Affaires des Etats-Unis d'Amerique.*

E.

*Mr. Williams to Baron Rehfues.*

LEGATION OF THE UNITED STATES.
*Peking, July* 29, 1868.

MONSIEUR LE MINISTRE: I have had the honor to receive your reply of the 29th ultimo, in relation to questions of consular control growing out of the case of the Talee *vs.* Manchu. I have since heard from the United States vice-consul at Tientsin that the dispute has been settled between the parties.

I have carefully perused your remarks, but I cannot perceive that the bankruptcy of a mercantile consul has any necessary connection with his ability to exercise his consular functions; and that whatever other reasons may exist to make it desirable for an unfortunate debtor to demit his office on declaring his bankruptcy, they do not affect his judicial position. In the present case, Mr. Meadows, though now a merchant, was in the British consular service for many years, where he became familiar with its details. I am induced, therefore, to make an extract from his report in this case:

"After I had read over the plaint, the defendant, Captain Clarke, asked the vice-consul of the North German Confederation, who was present, if he could give a decision if a similar case should be brought into his court. He replied that he could not decide the case, and would have to send down the written evidence to the consul general at Shanghai, who would decide it. As long as the vice-consul of the North German Confederation at Tientsin has not judicial powers to decide cases similar to the consuls of France, England, and America, so long, I beg respectfully to state, will it be impossible for the subjects and citizens of those nationalities, on bringing plaints into the vice-consular court of the North German Confederation, to obtain redress. * * * Are not judges and associates, in cases tried in the British and American consular courts, guided very considerably in their judgments in deciding cases by the manner, personal demeanor, and appearance of the witnesses when giving their evidence? The consul-general of the North German Confederation residing at Shanghai, 700 miles from Tientsin, and not being present in the vice-consular court when the evidence was taken, is he in a position, in accordance with Anglo-Saxon ideas of trying cases, to give a just decision? I maintain not. I consequently considered it to be my duty to bring the position of the North German Confederation vice-consul prominently forward, whenever circumstances allowed my doing so, in order that nationalities suffering hardships through the system might take the opportunity to urge upon the high authorities of the North German Confederation to empower the vice-consul at Tientsin with judicial powers to decide all cases, so that justice may be measured out where the parties in the case are present."

The fact that a salaried consul is soon to be appointed for the North German Confederation at Tientsin is proof that the inconveniences of the present arrangement have forced themselves on your notice; and I still think that you will agree with me that many of them can only be removed by granting judicial powers to all consular officers. I shall bring the desirableness of appointing a salaried consul for the United States at Tientsin to the notice of the Secretary of State, and also the other questions discussed in this correspondence.

I avail myself of this opportunity to renew to your excellency the assurance of my high regard.

S. WELLS WILLIAMS.

His Excellency BARON REHFUES,
*Minister of the North German Confederation to China.*

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*Mr. Seward to Mr. Browne.*

DEPARTMENT OF STATE,
*Washington, August* 17, 1868.

SIR: Your letter, written at San Francisco on the 24th of July last, has been received. It is accompanied by a correspondence which has taken place between yourself and Mr. George Wilkes, director of the Lower California Company, on the subject of emigration from China to Lower California.

I see nothing to disapprove of in your letter to Mr. Wilkes. The emigration movement which is the subject of this correspondence will doubtless prove beneficial, if justly, wisely, and generously conducted.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. ROSS BROWNE, Esq., *&c., &c., &c.*

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*Mr. Williams to Mr. Seward.*

No. 25.] LEGATION OF THE UNITED STATES,
*Peking, August* 22, 1868.

SIR: I have the honor to transmit for your consideration, and to be submitted to Congress, the original and printed copy of a decree dated

June 1, 1868, (inclosure A,) which I have made in conformity with the act of Congress, and which has received the approval of most of the consuls, and been duly published.

This measure of closing the cut-off near Nanking to all steamers navigating the Yangtsze river was proposed more than two years ago by Prince Kung, but owing to some informality nothing was done at the time. In January last he again urged it upon all the foreign ministers in a dispatch, (inclosure B,) wherein he stated the principal reasons for adopting it; but very injudiciously appended to his proposal the mode of punishing vessels offending against the rule. This addition would have involved a violation of treaty rights, and therefore could not be admitted, as I represented to him in my reply, (inclosure C;) but the desirableness of adopting the regulation on grounds of humanity was admitted by all. The masters and owners of most of the American and English steamers on the river, when inquired of, admitted the same also; and Messrs. Russell & Co., who have control of nearly one-half of the passage steamers, replied as follows when asked their views on the subject:

> In accordance with your request, we have made inquiries of the captains of the steamboats under our care, and the result is that we think there is reason in the proposition of the government to close it to foreign steamers. That the danger to native boats is exaggerated is quite possible, but the fact that the cut-off is the anchorage ground or port of Nanking seems clear, and the constant passage of steamers would be a great inconvenience to the native boats, to say the least. We trust, however, that acquiescence in this instance will not lead to other cut-offs being closed where no valid and peculiar reason exists, for if so the navigation of the river would be much interfered with.

Mr. Sands, United States vice-consul at Chinkiang, while regarding the liberty to trade on the Yangtze as involving the right to use every part of its channel, still assented to the decree, "because the Straw Shoe channel is not necessary to the navigation of the river by steamers, and it is used by the native craft as an anchorage during stress of weather, such an anchorage being very necessary to them, and steamers passing through the cut-off subject them to considerable damage in being thrown against each other by the swell made by the wheels of the steamers, although there has been but one case of collision in this channel since the river was opened between native craft and the steamers."

Dr. Salter gives his reasons for declining to assent to the decree in his letter of July 2d, which, and my reply, (inclosures D, E,) furnish you with all that need be said, in addition to the above extracts, to explain the subject.

The question brought up in this decree involves a peculiar and novel feature in the international relations between China and the treaty powers, inasmuch as it is territorial, and not commercial or political. The limits of the open ports, and the privileges of access into the interior, with the rights growing out of them, have been arranged in conformity to treaty stipulations; but the treaties contain no provision enabling either party to limit or extend any territorial right conceded in them. The only legal way to reach the object in view, as it appeared to me, so as to make the regulation binding on American citizens, was to make the decree enforce a prohibition of the Chinese government over its own steamers. The British minister took the same view of it; and I now respectfully submit my action for your consideration.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

In order to show the action of the British minister, (but not making it a part of this dispatch,) I send a copy of his notification.

*Notification.*

BRITISH LEGATION, PEKING.

Whereas, in consequence of collisions resulting in the loss of life and property having occurred between steamers and native craft in the channel commonly known as the Straw Shoe channel in the river Yangtsze, situated between the mainland and the island of Tsih-li-chan, called Tsau-hia on the admiralty charts, lying east of the city of Nanking, the Chinese government has thought proper to prohibit the use of this channel, extending from Theodolite Point to the eastern end of the island at Swallow Rock, to all steamers navigating the Yangtsze:

This prohibition is hereby publicly notified to British steam shipping; and it is hereby ordered that it shall be competent to the officers in charge of her Majesty's consulates on the Yangtsze river to punish every infraction of the same by a fine of 100 taels; and in the case of collision, by the additional payment of full compensation for all injury done to the native shipping.

And the foregoing regulations, being hereby declared urgent, shall take full effect in one month after the date on which it shall have been affixed and kept exhibited in the public offices of the consular officers, and so remain in full force until disapproved by her Majesty, such disapproval to be signified and made public in the manner provided by section 85 of the said order in council.

Given under my hand and seal this 4th day of June, 1868.

RUTHERFORD ALCOCK.

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A.

*Regulation for the consular courts of the United States, in China.*

In pursuance of section 4th of the act of Congress approved June 22, 1860, entitled "An act to carry into effect certain provisions in the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls, or other functionaries of the United States in those countries, or for other purposes," I, S. Wells Williams, chargé d'affaires *ad interim* of the United States to China, do hereby decree the following regulation, which shall have the force of law in the consular courts:

Whereas, repeated complaints having been made of the danger incurred by the native shipping from steamers passing through the channel commonly known as the Straw Shoe channel, situated between the main land and the island of Tsih-li-chan, called Tsau-hia on the admiralty charts, lying east of the city of Nanking; and collisions having already occurred between them and the native craft constantly using this reach, resulting in loss of life and property, the Chinese government has seen proper to prohibit the use of this channel, extending from the Theodolite Point to the eastern end of the island at Swallow Rock, to all steamers navigating the Yangtsze river.

Now, therefore, in order to give full force and effect to this prohibition, be it known to all whom it may concern, that all steamers sailing under the American flag are forbidden to use or pass through the above-described Straw Shoe channel, and every infraction of this regulation will render the steamer liable to a fine of 100 taels, prosecutable in either of the consular courts of the United States on the Yangtsze river, or at Shanghai; and in case of collision to pay full compensation for all damages done to the Chinese or their shipping.

[SEAL.] S. WELLS WILLIAMS.

LEGATION OF THE UNITED STATES,
*Peking, June* 1, 1868.

Assented to.
[SEAL.] GEORGE F. SEWARD,
*Consul General.*

SHANGHAI, *June* 12, 1868.

Assented to.
[SEAL.] JOHN A. T. MEADOWS,
*United States Vice-Consul.*

TIENTSIN, *June* 6, 1868.

Assented to.
[SEAL.]

CHAS. J. SANDS,
*Vice-Consul.*

CHINKIANG, *June* 19, 1868.

Assented to.
[SEAL.]

S. A. HOLMES,
*United States Vice-Consul.*

CHEFOO, *June* 8, 1868.

I cannot assent to the closing of this channel.
[SEAL.]

G. H. COLTON SALTER,
*United States Consul, Hankow and Kiukiang.*

HANKOW, *July* 2, 1868.

Assented to.
[SEAL.]

EDWARD C. LORD,
*United States Consul.*

NINGPO, *July* 14, 1868.

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B.

*Prince Kung to Mr. Williams.*

[Translation.]

JANUARY 3, 1868, (*Tungchi, 6th year, 12th moon, 9th day.*)

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication:

It appears that, at the port of Nanking, along the bank of the Yangtsze river, from the Ta-Shing custom-pass down to the end of the island of Kiangsin, and from Swallow Rock up to Theodolite Point, at the end of Tsih-ti-chan or Tsauhai island, there is a narrow passage or cut-off commonly called the Tsan-hiai-hiah, or Straw Shoe channel. It is, however, much used by native craft, among which are many salt-junks and tinder rafts. In the month of May, 1864, the American steamer Hukwang, belonging to Messrs. Russell & Co., in coming through this passage ran down a salt-junk; and the circumstances of this casualty were soon after made known to the foreign ministers at Peking, to ascertain if they were willing that a regulation should be made for preventing any such accidents in future.

In the month of May, 1867, another steamer was passing through the narrow channel, near the Kwanyin gate, and ran against several vessels of different sizes, which were injured or sunk and 18 persons thrown into the water.

On the 24th of August last this subject was again brought to the notice of the foreign ministers at Peking, with a request that they would instruct their consuls to see that the previous decision [about using the channel] was carried out, and that a regulation might be immediately issued by them to that effect, or, if possible, that a prohibitory notice to steamers not to use this channel be promulgated until the regulation should be decided on.

But it has been suggested that, if the rule now desired is to be deliberated on by the consuls, there will be a long delay, and a great deal of time unnecessarily lost before it can be all arranged. When the steamer Hukwang ran down the salt-junk, the United States authorities fined the captain 1,700 taels, besides making him pay a consideration of 100 taels for each of the three persons who were drowned at the time. But, in fact, it is incumbent on all foreign steamers to use the main channel of the river, and it is rather a freak than a necessity that they pass up this cut-off. The native junks and rafts are very sluggish in their movements, and cannot instantly weigh anchor, [when they see a steamer,] and thus the damages they receive are neither slight nor seldom.

The Foreign Office is in duty bound to do all it can to protect these vessels and the interests of their subjects, and they therefore now again bring this matter to the notice of your excellency, with the request that you would instruct the consuls to notify the American merchants and the captains of steamers [trading on the Yangtsze river] that they must henceforth keep to the main channel of the river in passing up and down, and not go through this narrow passage—the Straw Shoe channel—nor anchor in it, nor off the salt commissioner's depot; and that whoever transgresses this regulation and goes through the channel, thereby injuring or sinking any native craft, or causing the death of any person, shall be obliged to recompense the sufferers for the fair value of all their property destroyed, and pay a consideration of 100 taels for every person injured in any way by the collision, and 200 taels as a compensation for every life destroyed. If

a merchant or master of steamers thus offending thinks to preserve himself from the consequences of his conduct, and refuses to make just compensation, then it shall be permitted to the collector, acting in conjunction with the commissioner of customs, to detain the goods and the vessel as surety until full compensation be made.

The Foreign Office now therefore make known this plan to your excellency, as well as to all the other foreign ministers at Peking; and we shall instruct the superintendents of commerce for the northern and southern ports, and the inspector general, to the same intent; and we have to request that you will immediately transmit the necessary directions to the United States consuls, that they may make the same fully known to the merchants and captains of American steamers for their observance.

This will exhibit a desire to act impartially to all, and will moreover allay the fears of the native traders.

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires.*

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C.

*Mr. Williams to Prince Kung.*

LEGATION OF THE UNITED STATES,
*Peking, June* 9, 1868.

SIR: I had the honor to receive the dispatch of January 3, 1868, in which your imperial highness proposes that the Straw Shoe channel, near Nanking, shall henceforth be closed, under certain penalties, to the passage of all foreign vessels.

On receiving the above statement and proposition, I took measures to get full particulars respecting this channel, and have learned that it is a narrow passage wherein native craft continually go and come, and that there is danger, if a steamer suddenly sails through it, that the native vessels will be run down. I have, therefore, made a regulation to prevent and guard against such disasters, and forbidden steamers carrying the American flag from going through this reach under penalty of a fine, to be inflicted by the United States consul.

But I cannot forbear here to refer, and with some surprise, to the proposal in the dispatch under reply, that, whenever a steamer violates the law about using this channel, and a collision ensues, the custom-house authorities shall detain the vessel and her cargo, as surety, till compensation be made. Now, the treaty distinctly provides that, whenever an American vessel violates any regulation, information of the same shall be sent to the consul, who will investigate and decide the case. The custom-house authorities have no power to act in the matter; and to detain a vessel, therefore, as a lien upon it or its master for an offense, as this dispatch now under reply proposes, is going beyond the treaty. In this your imperial highness has assumed greater powers than can be permitted, and the provisions of the treaty cannot thus be overpassed and rules established which it did not contemplate.

Furthermore, it is here proposed to estimate the value of wounds and human life; but who can know beforehand whether the sufferers are high or low, old or young, and thus settle, at a fixed rate, their worth and the amount of their just compensation?

I beg to add, in explanation of the prohibitory regulation which I have now issued against steamers using the Straw Shoe channel, that it only speaks of that passage, and does not refer at all to their anchoring near or off the Yen Kwan or Salt Gabal office.

I have the honor to be, sir, your highness's obedient servant,
S. WELLS WILLIAMS.

His Imperial Highness PRINCE KUNG,
*Chief Secretary of State for Foreign Affairs.*

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D.

*Mr. Salter to Mr. Williams.*

CONSULATE OF THE UNITED STATES OF AMERICA,
*Hankow, July* 2, 1868.

SIR: I have received from George F. Seward, esq., United States consul-general, your regulation of June 1, 1868, relative to the edict of the Chinese government prohibiting the use of the Straw Shoe channel, extending from Theodolite Point to Swallow Rock on the Yangtaze-Kiang. Mr. Seward says, in his dispatch No. 37: "Should the closing of this channel (generally known to navigators on the river as the Nanking cut-off) meet with your approval, please sign and return."

I came out to China in 1863, and have had consular charge of the three ports on the Yang-Tse. I think I may safely say that I am more familiar with the accidents on the river than any other consul in China; and I speak from actual observation when I assert that there is no more probability or possibility of collision in this Straw Shoe channel than on the main channel of the river, if ordinary diligence and care be used.

The Chinese government speaks "of the danger incurred by the native shipping from steamers, and collisions having already occurred resulting in loss of life and property." In 1865, the Shanghai Steam Navigation Company's steamer Hukwang collided with a junk in this channel; *no lives* were lost, and the consul-general at Shanghai awarded full damages to the Chinese owners. I have carefully interrogated the different captains now running on the river, and their testimony is uniform that "no other collisions have occurred in this cut-off, and *no lives* have been lost."

I look upon this edict of the imperial government as emanating from the fertile brain of Tsang Kwohfan, who, as one of the guardians of the throne, wields immense influence at Peking. His object, I think, is a strategic one, to divert the foreign steamers from one of the approaches to Nanking. If he succeeds in this step, what is to prevent him from asserting that frequent accidents have occurred in the other cut-offs, "resulting in loss of life and property," and close them also? I will enumerate the principal cut-offs in order, and it is only following the idea to a logical conclusion, if the imperial government close one cut-off, they may close all the cut-offs on the Yangtsze-Kiang from Chin-Kiang to Hankow:

| | | |
|---|---|---|
| No. 1. | Nanking cut-off saves | 7 miles. |
| No. 2. | Williamette cut-off saves | 7 " |
| No. 3. | Jocelyn I cut-off saves | 4 " |
| No. 4. | Dove Point cut-off saves | 6 " |
| No. 5. | Oliphant I cut-off saves | 4 " |
| No. 6. | Hunter I cut-off saves | 4 " |
| No. 7. | Collinson I cut-off saves | 4 " |
| No. 8. | Grosvenor I cut-off saves | 10 " |
| No. 9. | Hukwang cut-off saves | 4 " |
| | Total saved | 50 " |

If this fatal concession is made, it will be one insidious step towards closing the river altogether. It is quite a significant fact that this Straw Shoe channel, or Nanking cut-off, is the only one of the nine above mentioned navigable during the entire year, in mid-winter the lead showing three to three and a half fathoms. In the narrowest part, if 200 junks were moored three deep on each side, there would still be room for the two largest steamers on the river (the Plymouth Rock, of 2,380 tons, and the Fire Queen, of 2,886 tons) to pass each other.

There are other cut-offs on the river Yangtsze; if they were all closed it would involve a loss to the American steamers now on the river of $50,000 per annum in coal alone. The pecuniary sacrifice, however, is nothing compared with the surrender, as I consider it, of a treaty right.

Looking dispassionately on the subject, with the light of five years' experience, I am constrained to return the regulation without my approval.

I am, sir, with great respect, your obedient servant,

G. H. COLTON SALTER,
*Consul of the United States, Hankow and Kuhiang.*

His Excellency S. WELLS WILLIAMS,
*United States Chargé d'Affaires ad interim.*

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E.

*Mr. Williams to Mr. Salter.*

LEGATION OF THE UNITED STATES,
*Peking, July* 28, 1868.

SIR: I beg to acknowledge your dispatch of the 2d instant, giving your reasons for not assenting to my decree of June 1, 1868, forbidding the use of the Straw Shoe channel to American steamers.

As these reasons (some of which are hypothetical) do not in my view outweigh those in favor of the measure, I shall publish the decree, and send it, with all the papers, to the Secretary of State, to be submitted to Congress.

In your dispatch you very properly refer to your long acquaintance with the ports and navigation of the Yangtsze river as entitling your opinion on this decree to much weight. It is possible, indeed, if care be taken, that there is no particular danger in navigating the Straw Shoe channel; yet here has been the scene of the only two serious

collisions on the river which I now remember. In one of them, on April 5, 1865, by the American steamer Hukwang three women were drowned; and in another one last year, by a French steamer, a score of men were precipitated into the water as their junk was crushed, but happily no lives were lost.

So long ago as 1861, the use of this cut-off by foreign steamers was deemed to be so dangerous to the native crafts lying there, that the Taipings, then in possession of Nanking, prohibited it; and Governor-General Li, on reoccupying the city, complained of the danger of collision. In the spring of 1865, when the British and French commissioners accompanied the Chinese officers in their visit to Nanking preparatory to opening it as a new port, the latter drew the attention of their associates to the risk attending the constant passage of steamers through this channel. The governor-general says "the channel varies much in width, and the water at times runs deep and strong, and at other times with less force. Hitherto, native vessels trading up and down the river, and among them salt junks and timber rafts, have used this reach; and as these last are clumsy, if steamers pass up and down by them, they cannot easily move out of the way."

These arguments, based on facts of constant occurrence, are worthy of consideration on grounds of humanity. By cooperating with the Chinese authorities in restricting this channel to native craft, we show a desire not to unnecessarily incommode them; and it appears by your table of the various cut-offs that our steamers only lose seven miles in the whole trip to Hankow by avoiding this one—no great sacrifice for them, if thereby life and property are rendered more secure.

There is no power in the Chinese government to close the others without our assent. You allude to strategic and other reasons which have induced them to close this; but only one reason has ever been brought forward by them, viz, a desire to prevent accidents in future, and relieve the fears of the native boatmen; and I have no idea that they have had any other motive or object.

They have issued no edict about the matter, for it could not affect us; they have, in the exercise of their guardianship of their own territory, shown the danger of this channel, and I have issued a decree supporting and enforcing the regulation over American steamers. The British minister has done the same, and the French, Russian, and Prussian ministers all approve the propriety of this rule, which does not close the navigation of the river in any way, and merely requires steamers to take the safest of two channels.

If the Chinese steamers use the forbidden passage, they should be reported and required to keep to the main channel.

I am, sir, respectfully, your obedient servant,

S. WELLS WILLIAMS.

G. H. C SALTER, Esq.,
*United States Consul, Hankow.*

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## *Mr. Seward to Mr. Browne.*

No. 3.] DEPARTMENT OF STATE,
*Washington, September* 7, 1868.

SIR: I have received Mr. Williams's dispatch of the 2d of July, No. 17, together with its accompaniments, namely, a copy of eight rules which have been agreed upon between Prince Kung and the foreign ministers residing at Peking, for the conduct of the joint tribunal in the case of confiscation and fines for breaches of the revenue laws.

The accompaniment also contains a copy of an extended correspondence, which occurred in part before the adoption of those rules and in part after their adoption. I have the pleasure to express the President's assent to those rules, and to commend the diligence, discretion, and ability which Mr. Williams has practiced in securing the adoption of a code which promises to be so highly beneficial to commerce in the East.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. ROSS BROWNE, Esq., *&c., &c., &c.*

*Mr. Seward to Mr. Browne.*

No. 4.] DEPARTMENT OF STATE,
*Washington, September* 7, 1868.

SIR: I have received Mr. Williams's dispatch of July, No. 16. I am gratified with the consideration he has manifested in sending me a copy of a report which Tsang Kwohfan, governor-general of the province of Kiangsu Ngauhwui and Kiangsi, has submitted to the Emperor's government upon the subject of an expected revision of treaties between China and the western powers. I am under obligations to him also for the careful and judicious commentary upon that paper which he has submitted in that dispatch. The negotiations which we have recently conducted here with the Chinese envoys have made us quite familiar with the questions which the governor-general has discussed with so much ability and candor, and with the peculiar views of the Chinese government and people concerning them.

I have given particular attention to the suggestions contained in Mr. Williams's dispatch concerning the want of friendliness and sympathy towards the Chinese immigrants and laborers which has been manifested in our new States and Territories on the Pacific coast. Some of the injurious legislation heretofore adopted there has already been corrected by subsequent legislation and by the courts. This government, however, has not heretofore bestowed any deliberate consideration upon the evils complained of. Reasons for this oversight are apparent. China has heretofore preferred to remain without diplomatic representation in the United States, and even without representation by consular or commercial agents in the United States ports. Aggrieved Chinamen have thus had no official channel through which to convey their complaints to the government at Washington. The Chinese government at Peking might, perhaps, have invoked the aid of your legation in submitting such complaints to the government of the United States, but I am not aware that even this has ever been done. In the treaty which we have recently negotiated with the Chinese envoys we have endeavored to provide a remedy for the existing evils.

When the Emperor of China shall have ratified that treaty he will then be able to appoint consuls in the ports of the United States, and those agents will have all the powers, privileges, and facilities which will be found necessary for securing due protection to such Chinamen as shall be sojourning in, or shall have emigrated to, the United States.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. ROSS BROWNE, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Browne.*

No. 6.] DEPARTMENT OF STATE,
*Washington, September* 8, 1868.

SIR: S. Wells Williams, esq., on the 26th of May last, addressed his dispatch No. 12 to this department. It was duly received on the 12th ultimo. The paper chiefly relates to a contemplated revision of the tariff and commercial articles in the treaty of 1858 between Great Britain and China. Provision for such revision was made in article 27 of that treaty. Mr. Williams writes that the main purpose of the pro-

posed revision is to promote the extension of trade throughout the provinces, and to open up their resources to general use and advantage. These desirable objects it is supposed will be greatly promoted by allowing steam vessels to navigate the inland waters of China. Mr. Williams dwells upon the benefits which may be anticipated from an extension of inland steam navigation in China. At the same time he does not overlook the objections which arise from the apprehensions which the Chinese government entertain in regard to so serious a modification of its internal policy.

I refer you to Mr. Williams's dispatch for further particulars, being content on the present occasion to bring to your attention the purpose of the dispatch. He states that purpose as follows: "In view of the present revision of the British treaty it is desirable that instructions and powers be furnished to the United States minister in China, if it is deemed best, to enter upon similar negotiations for a revision of the American treaty during the coming year, so that he may be prepared to obtain the same advantages for our countrymen which others enjoy." Mr. Williams adds, "that though the diplomatic mission to the treaty powers in the West, which is now in the United States, was designed, among other objects, to show them that the Chinese government is not yet prepared to accept all the proposals made to it, there is no determination to resist every change and return to the seclusion of former days."

Article 30 of the treaty, concluded on the 18th of June, 1858, between the United States and China, recites that "The contracting parties hereby agree that should, at any time, the Ta-Tsing empire grant to any nation, or the merchants or citizens of any nation, any right, privilege, or favor, connected either with navigation, commerce, political or other intercourse, which is not conferred by this treaty, such right, privilege and favor shall at once freely inure to the benefit of the United States, its public officers, merchants, and citizens."

The additional articles to the treaty of June 18, 1858, which were concluded here on the 28th of June last, which have been duly ratified by the President of the United States, and which have already been sent to Peking for the purpose of being ratified there by the Chinese government, embrace all the subjects which this government has deemed to be essential, at the present time, to adjust by an immediate revision of the treaty of 1858 between the United States and China.

In concluding those additional articles, however, this government did not leave out of view the fact that the British government has in contemplation a revision of the treaty between Great Britain and China, with a view to a modification of the tariff and commercial articles contained in the last-mentioned treaty.

Under these circumstances, the United States refrain from initiating any proposal for a modification of the tariff and commercial articles in their treaty with China. Nevertheless, if any such modifications shall be made in the contemplated revision of the British treaty, it will then be not merely expedient, but absolutely necessary, that the United States shall have for themselves an equal participation of all the benefits and advantages of such modifications.

It is believed that the 30th article of our treaty of 1858 will secure to us all those benefits, without any new stipulation. Nevertheless, to guard against any error or mistake on that point, you are hereby authorized to enter into negotiations with the Chinese government for a revision of our treaty of 1858, so as to secure to the government and citizens of the United States the same advantages and benefits which may be secured for the government and subjects of Great Britain in

any new articles or treaties which may be concluded between Great Britain and China in the revision of that treaty which is expected to be made.

I think it necessary only to give you one general instruction upon this question, namely, that the Chinese government should be advised and solicited to make all such concessions to internal navigation by steam, by the construction of railroads, and by telegraphs, as largely and as rapidly as a system so entirely new there can be accommodated to the consent and acceptance of the people, who have lived so long and so closely secluded from commercial, social, and political intercourse with the western nations. On the other hand, these desirable changes are not to be pressed with such great urgency as to endanger the stability of the present government or the internal peace and tranquillity of China.

This instruction will be your guide in such debates and discussions as may arise between yourself and the representative of Great Britain or other treaty powers.

We do not allow ourselves to suppose that her Majesty's government will seek or desire to press their proposals for revision beyond the limit which I have described. While they adhere, as we expect they will, to that limit, you will lend them your good offices and cordial support.

Ample powers, corresponding to the principles of this instruction, will, in due time, be sent to you by this department.

A copy hereof will be given to the Chinese envoys now in the United States, for their information. A copy of the same will also be transmitted to our representatives in London and Paris, respectively, with a view to its being used, if necessary, in preserving and maintaining a good understanding between the United States and the treaty powers in regard to the important subjects herein discussed.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. ROSS BROWNE, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Williams to Mr. Seward.*

No. 28.] LEGATION OF THE UNITED STATES,
*Peking, September* 14, 1868.

SIR: Referring to Mr. Burlingame's dispatch No. 125, of December 18, 1866, inclosing a copy of the Revised Land Regulations for the foreign settlement at Shanghai, I have the honor to request that a reply be sent to it, as circumstances render it desirable that these regulations be soon acted upon.

I have just received an official note upon this subject from Sir Rutherford Alcock, her Britannic Majesty's minister here, inquiring if the United States government has responded to the request contained in that dispatch. In this note he says:

> It is now more than 12 months since her Majesty's government informed me they were prepared to sanction those regulations, in common with other treaty powers, when such concurrence should be formally made known, and that they had communicated with the government of the United States on the subject. As I have not received any intimation of the views of the United States government, and as it is of no avail for one treaty power to accept the said regulations without a similar act on the part of all, I shall be glad to be informed if you have received any instructions.

The United States consul general has also been inquired of by the municipal council as to the views of the United States government, and

was informed that those of Portugal and Netherlands had also formally approved them, and that France and Sweden and Norway have them in favorable consideration.

The acceptance of these Land Regulations has been urged upon you, and I hope that the government will not withhold its assent, for at present the well-being of the community depends somewhat upon it. To my mind the discussion respecting the article in the *Réglements*, about which there has been some correspondence with the French and British governments, is quite distinct from this approval, as the two communities are under different municipalities.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

HON. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Williams to Mr. Seward.*

No. 33.] LEGATION OF THE UNITED STATES,
*Peking, September* 26, 1868.

SIR: I have the honor to forward to you a series of papers (inclosures A to K) relating to the revision of the British treaty, which, though of considerable length, will repay perusal, and give you a clear idea of the present views of this government upon many points brought to their notice by the British minister, and their decision upon many of those most fully discussed. These papers are connected with the memorial of Tsang Kwohfan, given in my dispatch No. 16, and the sentiments and arguments expressed by him illustrate the train of thought given in the remarks of the Chinese officers in some of these papers.

They divide themselves into three parts: Inclosure A contains the leading points brought before the commission by the English legation as most desirable to be considered in revising the treaty; and inclosures B C are the replies from the Foreign Office, taking up each point in order. The second of these papers was written by Wansiang, and gives the views of this most enlightened and liberal of the Peking ministers upon the general principles of trade and protection of native interests. The effects of a trade carried on in the country itself, in which the foreigner has the advantage over the native in conducting it, are here set forth in a way worthy of your consideration. The commission referred to was mentioned by me in a former dispatch, and consisted of Mr. Hugh Frazer and Mr. T. Adkins on the part of Sir Rutherford Alcock; and two of the oldest clerks in the Foreign Office, aided by Mr. Robert Hart, on the part of Prince Kung. The next five inclosures, D to H, contain the remarks of the British minister upon the preceding papers when he submitted them to his colleagues, and their replies upon such points as demanded particular attention. At the time these documents were submitted to them the details of the discussions had not been very fully understood; and their remarks are therefore valuable, as showing their independent views as to what the trade in and with China most required, as well as their estimation of the labors of the British minister in urging the Chinese authorities to begin these important changes.

The last three inclosures, I, J, K, contain his remarks in again submitting to them his minute to Prince Kung, in which he urges upon this government the need of guarding the trade against unjust exactions, of permitting British merchants to open warehouses in the interior, and of

furnishing other facilities in carrying on the trade; and advises them to reconsider other points which they had previously rejected. The reply to this minute has not yet been received.

I think that you will agree with me that these various papers contain clear evidence of the desire of the central government of China, at least, to move on in the march of improvement as soon as they can see their way plain to do so. This is not a little, when you recur to the views expressed in the series of papers given in Mr. Reed's dispatches, (dispatch No. 33, page 443,) which contain the general opinions on matters of trade and intercourse held by the colleagues and peers of the same officers who now discuss them so much more intelligently. This advance has been in a great measure the result of their constant contact during the last seven years with many foreigners, wherein opportunity has been afforded them to learn the truth about such things as heretofore they had really no means of acquiring correct information, even if they had then had the desire or the permission.

Seeing that the changes proposed in these papers will affect the interests of American trade as soon as they are accepted by the British government, especially the proposition to add the transit duty of two and a half per cent. to the tariff import duty, it is desirable that instructions be sent to this legation giving the views of the department upon this and other leading points, preparatory to the time when they will be submitted by the Chinese for its decision.

I have, in inclosure F, given my own views upon the general bearing of the proposed changes; and if there is ground for encouragement that many of them will be adopted or attempted, patience needs to be exercised in witnessing the slow advances likely to be made. Even if the government is desirous to introduce such as it sees most feasible and necessary, its leading members here in the capital know, far better than we foreigners do, the mass of ignorance, inertness, and prejudice to be encountered in carrying them into execution. In our own country an intelligent people originate and carry on such improvements; in India, an intelligent government is carrying them on over an apathetic, ignorant population, whose posterity will no doubt better appreciate the benefits derived from them; but in China, a hesitating, half-instructed, impoverished government is urged to introduce them among their unwilling subjects, though I think the latter to be the least unwilling. It is not so much the making of a treaty that improves our relations with a country in the position that this now is—and to improve those relations means to benefit both her people and rulers—as it is to help them to carry into effect those measures and enterprises which will do them permanent good.

The *likin* taxes which are spoken of in these papers are a certain percentage (literally, a *cash* to a *catty*, *i. e.*, a cent to a pound) levied by the provincial authorities in times of rebellion upon articles of trade passing through the districts of their jurisdiction to raise funds for its suppression, for in China each province is required to raise and feed its own troops as far as it can. After the disturbances are quelled, this is found to be such a convenient mode of raising revenue, that the *likin* tax is not only not removed, but sometimes is increased, till trade is crushed and forced to find new channels.

A perusal of these papers shows very distinctly how the Chinese government is bound up by the treaties it has made to pursue a certain course of policy, and in a measure is forced to obey the will of other nations. For instance, most of the propositions contained in inclosure A refer to the reduction or abrogation of duty on certain articles of

trade; and most of them are acceded to by the prince and his advisers. But when they propose to double the duty on tea and silk to increase their own revenue, which is not very great upon a commerce of such magnitude, difficulties are thrown in the way, and the rectification of the tariff is declared to be now unadvisable, and must be deferred *sine die*. It is objected even to add to the duty on opium, though that is now rather under five per cent.; but as nearly one-third of this import enters clandestinely, it is not probable that an increased duty would help the revenue.

Thus China is placed very much at the mercy of the treaty powers in matters of finance connected with its external and internal trade; their stronger power comes in, to judge whether such a course or such a change is proper or not, and she must act accordingly. It places her in a position which may now be the best for her welfare, but will greatly cramp her action and development in future, if she improves in the way now opened out to her.

The extension of trade in the interior, by allowing foreigners to remain at the entrepôts and conduct their trade with the producers as much as they can, is an advance which promises the greatest benefits, for it will tend to bring natives into more constant contact with foreigners, and thus afford opportunity for each to better understand the other. One great cause for the mutual distrust now felt between them arises from their mutual ignorance; and contact in traffic more than some others insures mutual forbearance and trust. In the interior, this contact cannot be carried out extensively without a knowledge of each other's language; and this will involve other results as it becomes general.

There is no limit, it may be almost said, to the degree which the treaty powers may interfere in the domestic affairs of China, for one thing involves another, and every advance compels some change in a new direction. Thus, if an officer acts in an arbitrary manner, and does things that continually interfere with trade and other rights, his removal is urged upon his superiors as necessary to mutual peace, at the place. This removal may not, however, please the gentry who urged him to adopt these measures, and his successor may find it no easy matter to please the class with whom he is probably in sympathy, and retain his official position. The carrying out of these treaties is likely to affect the whole fabric of Chinese society, and there is some danger of a reaction if the usages and principles of western countries be applied too stringently to this.

I believe this tutelage, with all its responsibilities, is the best way now available to elevate the Chinese to their proper place among the nations of the earth. They have made great progress since the ratification of the last British treaty in 1860, but the point they started from then was very low down; they knew almost nothing of the duties and rights involved in them, and would never have carried them out any better than the former treaties, had not foreign representatives seated themselves in their capital to see that this was done.

In carrying on this toilsome work, I wish to bear my testimony to the efficiency and general justice of the British government and its officials in China. Nearly every privilege possessed now by Christian nations in this empire has been obtained and maintained by them; and their present influence in the councils of its rulers is honorably used for the general welfare. It is upheld and strengthened by a trained body of consular officers versed in the language, and who, learning their duties in the lower grades of the service, are promoted as they prove themselves

worthy to fill consular functions. It is much to be desired, for our own reputation, that Congress would institute a similar service for the American consulates, and raise up a body of men able to conduct intercourse with native officials in their own language.

I have the honor to be, sir, your obedient servant,

S. WELLS WILLIAMS.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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A.

*Minutes of a meeting of the commission, May 4, to recapitulate the British demands. (This table of proposals was laid before the Chinese members in Chinese.)*

I.—LIKIN TAXES AND INLAND TRANSPORT.

That no levy of taxes whatever may be permitted, whether upon foreign goods or Chinese produce forming a part of foreign export trade, within a radius of 30 *li* (10 miles) from the custom-house at each port opened by treaty.

To take into consideration whether sums received on account of transit dues might not be divided among the treasuries of the different provinces through which the goods may pass, with advantage, as tending to give the provincial authorities a direct interest in the increase of foreign trade.

II.—TARIFF.

IMPORTS—HOUSEHOLD STORES AND SHIPS' STORES.

1. In addition to the second rule in the tariff, providing that household stores and ships' stores should not pay duty, it shall be allowed that all articles destined for foreigners' consumption exclusively, and not for sale to Chinese, shall be duty free. Under the head of ships' stores shall be classed all stores used in docks for the repair of foreign ships, and stones and machinery used exclusively in the dock establishments. The importation of these to be limited to dock companies under a license, and a sufficient bond not to lend their names, and not to import for sale to Chinese.
2. Foreign goods imported in Chinese junks shall be subject to the same duty as if imported in foreign vessels; and to effect this, such importations shall be placed under the supervision of the imperial maritime customs.
3. Guano and manure shall be free.
4. Foreign coal shall be free of duty.
5. Woolen and cotton goods shall be reduced to a standard of 2½ per cent. ad valorem.
6. White pepper shall pay 4 mace, and black pepper 3 mace, per pecul.
7. Watches shall pay a duty of 5 per cent. ad valorem, as clocks now do.
8. Tin plates to pay 2 mace per pecul.
9. A conference shall be held at Shanghai between her Majesty's council, assisted by the Chamber of Commerce and the commissioner of customs, to arrange an equitable tariff of timber duties on a basis of 5 per cent. ad valorem.
10. Foreign salt shall be allowed to be imported under special provisions, to secure the Chinese government from loss by the competition with native produce.

EXPORTS.

11. Foreign grain landed and stored shall be re-exported free of duty.
12. Tea shall pay 5 per cent. ad valorem.
13. The duty on native coal shall be reduced.
14. Coal shall be exempt from coast trade duty.

III.—PAYMENT OF CUSTOM DUES.

1. At each port the amount to be paid as customs duties in the currency of the place, as compared with the established standard, shall be fixed.
2. Government assayers shall be appointed, to assimilate the currency of the open ports.
3. Drawbacks for duty on goods re-exported shall be made payable in silver on presentation at the government banks.
4. No limitation shall be placed upon the time during which duty will be returned upon re-exported goods.

## IV.—Facilities of Transport, etc.

1. British merchants shall have a recognized right to have unimpeded access, and carry their own articles of commerce, whether foreign goods or Chinese produce, in which they have a bona fide interest in their own vessels, whether propelled by oars, sails, or steam, through the interior, to and from specified marts and producing districts, under customs regulations and permits to be agreed upon between her Majesty's minister and the Foreign Office.

2. The places and districts to which access is required shall be specified; three points have been already mentioned—the Yangtsze river above Hankau, the Poyang lake, and the North, East, and South rivers of Canton.

3. British merchants availing themselves of this right of navigation shall be permitted to own warehouses at points where the convenience of their own commerce may require them; and for this purpose a license shall be given by the consul at the nearest treaty port, who shall exercise due circumspection in the issue of such license, and have the power to cancel it.

4. Such foreign employés as may be required for the supervision of these houses shall be permited to reside in them, and suffer no molestation from officials or people.

5. To prevent possible inconvenience from the operation of the exterritorial clause, there shall be a consular agent at certain central points, to be hereafter determined; and whatever his nationality, he will be empowered, by the concurrence of all the treaty powers, to take cognizance of all misconduct or infringement of treaty on the part of foreigners.

## V.—Landing-stages—New Ports.

1. Landing-stages for goods, produce, and passengers, shall be permitted at the following places on the Yangtsze river, between Wusung and Hankow, viz: 1. Hwang-Chau; 2. Wu-such; 3. Tung-lin; 4. Ngan-king; 5. Ta-tung; 6. Wu-hu; 7. I-ching; 8. Kiang-yin; 9. Wu-sung, besides the open ports of Kinkiang, Nanking, and Chinkiang. The use of these stages shall be accorded to British vessels under license and regulations hereafter to be settled by the British minister and Foreign Office in concert.

2. The port of Wan-chow shall be regularly opened to foreign trade, but no demand shall be made for separate foreign concession or settlement, and it is rather to be regarded as a port of call for foreign shipping, where they may take in or discharge cargo.

## VI.—Bonded Warehouses.

A system of bonded warehouses shall be established at the open ports, either by govment warehouses, or permission to merchants to bond goods in their own godowns, whenever a majority of two-thirds of the mercantile community shall represent such an arrangement to be desirable.

## VII.—Coal Mines to be worked.

It is important to provide for the large number of steamers running on the coast a sufficient and cheap supply of coal. This can only be done by opening native sources; and therefore (referring to a previous dispatch of Sir R. Alcock) the following proposal is added: Permission shall be given by the Chinese government and high provincial authorities to foreigners to work certain specified coal mines by foreign machinery and agencies under regulations.

## VIII.—Monopolies.

All monopolies being strictly interdicted by treaty, it is deemed unnecessary to make any further provision on this head. But as certain monopolies have been persevered in to the great injury of foreign trade, and entailing pecuniary loss on merchants individually, notably in the article of camphor at Tamseng, of rice at Taiwan, and (there is reason to believe) of iron at Amoy, the British minister deems it advisable that all such attempts at monopoly should be put down and formally prohibited, either by official injunctions upon the high provincial authorities or by imperial edict; and that these three should be more especially denounced.

Further, as this will not indemnify merchants who have actually suffered by such breach of treaty stipulations, that indemnity should be paid, where any clearly avouched loss can be established, in like manner as means of exaction and squeezes, whether by the illegal levy of transit dues or *li kin* taxes on foreign goods at the ports.

B No. 1.

*Reply of the Foreign Office to proposals for revision of treaty.*

On the 2d of January the Foreign Office received your excellency's memorandum containing five clauses for a revision of treaty, and on the 4th of May a memorandum containing 29 clauses of a like import. The prince has carefully considered both these documents. The expression of sympathy with China therein contained are gratefully acknowledged as evidence of your excellency's friendly feelings, and of your generous interest in our affairs. Mr. Burlingame's mission to the friendly foreign states last year will certainly bring about a mutual understanding and increase those friendly feelings.

Now, with regard to the war taxes, the fundamental revenue of China is the land tax; the system of popular loans is unknown. In time of war his Majesty has, out of compassion for the sufferings of his people, remitted the land tax wholly or partly in the disturbed districts; and as a temporary measure the national necessities must be supplied by these extraordinary levies. Even now military operations are not ended, and funds are still much required. Indeed, the apprehension that the people will not be able to bear their burden is a source of constant anxiety to the government. As peace returns and order is restored, their taxes will surely be reduced or entirely removed. Besides, the foreign merchants, relieved of all taxes on their inland trade by the payment of a full and half duty, have the advantage of the native merchants, on whom these war taxes have been levied in full.

It may be true, as your excellency states, that British merchants have sustained heavy losses during the past two years, but the increased number of ports has increased the foreign merchant's trade expenses, while competition has tended to restrict his business. The reckless competition of so many foreign merchants must inevitably diminish the profits of trade. The prince thinks that your excellency's experience in China will have shown this.

With regard to the complaints of the foreign merchants of inland exactions, the proclamation which your excellency has approved, and which is about to be issued at all the barriers, will remove that evil. Previous complaints may have arisen from the merchants having allowed this produce to be separated from their transit papers, as well as from an actual illegal levy, but authentic cases shall be settled on their individual merits.

Ever since the opening of the Yangtsze river the native trade there has declined, and in November of last year Tsang Kwohfan presented a petition from the native merchants begging, as remedial measures, for the withdrawal of the right to navigate it and to carry on inland traffic. These statements seemed to the prince reliable and worthy of attention, but in view of the difficulty your excellency would have of dealing with their request, though pitying the decadence of their commerce. These feelings I trust your excellency will also appreciate. If mutual advantage is to result from the present revision, consideration must be shown to the native merchants as well as to favor the foreigner.

The five points of the memorandum as contained in the 29 clauses have been repeatedly discussed by our commissioners and Messrs. Fraser and Adkins, and are now replied to seriatim.

1. Repayment in full of exactions on foreign trade in the interior.

A proclamation will be issued from this office requiring the authorities at the barriers to act in accordance with treaty, thus avoiding illegal levies in future. Previous claims will be treated as they are found to be acts of extortion by officials, or the result of the separation of the goods from their transit papers.

2. No levy of *likin* to be made on produce for export, or on foreign imported goods, within a radius of 30 *li*, to be measured from the custom-house at each port.

The war expenses of foreign countries are met by loans negotiated with the merchants. Having no such resource, China is compelled to resort to the *likin*. The import comes on the native, and not on the foreigner. Endless confusions and evasions would result from the adoption of this suggestion to do away with the *likin* within 30 *li*, (10 miles.) The military supplies, too, would be interfered with. After all, this is a matter for the consideration of China herself. With the disbanding of her armies and restoration of tranquillity alterations may be made in her fiscal arrangements, and out of consideration for the merchants the *li-kin* will be abolished.

3. That the inland transit dues leviable by treaty be divided among the treasuries of the provinces through which the goods pass with advantage, as tending to give the provincial authorities an interest in encouraging trade.

These dues as levied by treaty are applied by China for military purposes, or are remitted to the treasury, as the case may be. How, then, can the several provinces help themselves? As to fostering commerce, if the foreign merchant has proper papers, he may pass through many provinces and be protected in all alike. No official will dare to make any distinction, no matter whether any duties had been paid within his particular

jurisdiction or not. The Foreign Office are issuing a stringent proclamation on this point, about which there need be no further anxiety.

4. In addition to ships' stores and household stores, declared to be free by rule II of the tariff, goods imported for foreign consumption, and not for sale to the Chinese, to be duty free.

The intention of this rule in the tariff was to admit such articles for personal use duty free, but to impose a duty on those intended for sale. A list of articles so required for personal use will be drawn up, and regulations issued, to avoid confusion.

5 and 6. Under the head of ships' stores come all stores used in dock for repairing foreign ships, and stores and machinery used in docks, to be imported only by dock companies established under license, and guaranteed for use of dock, not for sale. The opening of a miscellaneous store to be also under license.

As a dock is a trading establishment, it is considered that, except ships' stores and machinery used in repairing ships, *all* materials used for building new vessels should pay a duty of five per cent. on the value of the vessel constructed. The necessary securities and regulations to be made permanent after three years, if satisfactory.

7. Manure and guano to be imported free.

Free, the discharge being under permit.

8. Foreign coal to be free.

Free under permit.

9. Duties on cotton and woolen goods to be reduced to two and one-half per cent. *ad valorem.*

There are many varieties of these goods; their several values can be estimated with a view to a reduction of duty.

10. Watches, like clocks, to pay five per cent. *ad valorem.*

A reduction of duty to this amount can be granted.

11. Tin plates to be reduced to two and one-half per pecul.

Reduction in accordance.

12. Timber to pay *ad valorem* five per cent.; the valuation to be made by the consul, commissioner of customs, and Chamber of Commerce at Shanghai.

Tariff rate can be reduced, but not to reckon *ad valorem.*

13. White pepper, four mace; black pepper, two mace.

14. Foreign grain to be re-exported free. [Conceded under permit.] Foreign salt to be imported under such rules as would prevent injury to the salt revenue.

The regulations in force in Kiangsu and Chehkiang are suggested as available.

The salt tariff is wholly imperial, and is a matter under special government control. The traffic in salt is not an ordinary one; not even the highest officers in the state can engage in it at their pleasure; much less can the merchants take upon themselves to do so. This item cannot be admitted.

15. Tea to pay an *ad valorem* duty of five per cent.

The Foreign Office contemplates an increase of duty on tea. A separate list is made of the articles on which an increased duty is contemplated.

16. Duty on native coal to be reduced.

17. Coast-trade duty to be abolished.

18, 19. Currency to be assimilated to the Canton standard, and assays made at the ports to that end.

Shall be done.

20. Drawbacks to be made payable in cash.

The payment of drawbacks in cash will confuse the accounts, and will be troublesome from the fluctuations in the value of specie; but if this is absolutely necessary, the limit of the drawback will be only three months.

21. British merchants shall have the right to have unimpeded access, and carry their articles of commerce, whether foreign goods or Chinese produce—their own property—in their own vessels, whether propelled by sails or steam, through the interior, from specified marts and producing districts, under customs passes (Canton,) and regulations to be agreed upon between her Majesty's minister and the Foreign Office. (The places and districts to which access is required shall be specified; three points are now indicated, viz: the Yangtsze above Hankow, the Poyang lake, the waters above Canton.)

The places named are on the inner waters, whither foreigners can proceed under proper customs passes. The use of steamers is inadmissible. The coast and (Yangtsze) river trade is already in the hands of foreigners; with steamers on the inland rivers and lakes, they would usurp the entire trade of the empire. Such preference given to the foreigner over the native would not be fair. The latter have no steamers running on the inner waters, and the foreigner availing himself of the inland traffic must use the native means thereto.

22. Inland residence at marts and en route.

Such foreign employé's warehouse can be built at the open ports. Such establishments in the interior would injure native commerce, and both parties would have trouble, from the necessity of surveillance in an extensive and thickly populated country.

23. Jurisdiction of a foreign official was not discussed.

24. Opening of places above Wusung as landing stages.

It is not advisable, perhaps, to establish jetties on the river in addition to the four ports of Chinkiang, Nanking, Kinkiang, and Hankow. In the year 1862 Sir Frederick Bruce was anxious for liberty to trade temporarily at Ta-tung, Wuhu, and Nanking; but the matter was dropped, as Sir F. Bruce could not entertain some transit duty arrangements proposed in Hupeh. The present requisition for landing places may be met by the establishment of custom-houses for the levy of duty at these three places. But as the necessary funds will not be forthcoming, for the duties collected will probably not suffice to pay the expenses, it will be necessary to consider maturely as to the mutual advantages of the measure.

25. A port to be opened on the coast—Wanchow.

Yes; in exchange for Kiungchow, which has never been used.

26. Bonded warehouses where desired by a majority of merchants.

Where a majority of merchants are willing, the superintendent of customs and the commissioner can establish official bonded warehouses, under regulations.

27. On account of the large consumption of coal, it is advisable to allow foreigners to work native coal mines with foreign appliances; the mines in Wan-ping-hien are indicated. [The coal districts of China are her own estate; the working of these, whether with or without foreign aids or appliances, must be left to the minister of the southern ports, who will act as local circumstances require; he will have regard to the sovereign power of China and to the requirements of trade.]

28. Monopolies of camphor and rice.

Camphor wood is used in the government works, and has hitherto been considered to be government property. The camphor trade is not an ordinary monopoly. The merchant shall be at full liberty to purchase what he requires, without official interference; but to avoid trouble, the foreigner must not go among the savages to get the camphor for himself.

The liberty to export rice depends on the abundance or scarcity of the season. In a time of scarcity the prohibition to export will fairly lie on native and foreigner alike; it will not be specially directed at the foreigner.

29. International commercial code.

The establishment of such a code would be very advantageous, and the minister's superintendent shall depute some properly experienced officer to confer with the chief judge on the matter.

B No. 2.

The 29 articles laid before the commission by Mr. Fraser have been carefully considered by the prince and his colleagues. Certain articles were found to be inadmissible, but everything which was not detrimental to the sovereign power of China, while it was advantageous to the foreign merchant, has been conceded; of this a detailed statement, with remarks, has been already submitted to your excellency.

The prince has received various representations from superintendents of customs and from the mercantile communities, embodying numerous demands on your excellency; but, lest you should have difficulty in dealing with them, they have not been mooted, and a reply is requested on the points already conceded.

In the reduction of duties or abolition of them, and in putting a stop to inland exactions by proclamation, China has dealt liberally by the men from afar. The merchants (on their part) must not pervert this consideration for their commerce into a means of injuring the revenue.

In the proclamation just issued, lest the foreign merchant should suffer by being wrongfully taxed, a broad distinction has been made between him and the native trader. It would be to the advantage of both parties, and save much future confusion, if the merchants themselves would observe such distinctions. For instance, when a native craft runs under a foreign flag, there is no means of ascertaining whether she is really under a foreign charter and with a flag issued by the consul, or whether a native merchant, in fraudulent collusion with a foreigner, has obtained the flag to enable him to smuggle the more easily. Then, Chinese-owned cargoes, leaving or entering port in foreign ships, assume a quasi foreign character, and as such pay duty according to a lower tariff scale.

These two grievances, by which a foreigner gains no advantage while our revenue suffers, arise from the want of a marked distinction between the foreigner and native. It is now suggested that your excellency instruct the merchants that in future the consular papers of a native craft chartered by a foreign merchant must bear the seal of the superintendent of customs before the charter can be effected, and that the want of such papers and seal renders vessel and cargo liable to confiscation; also that Chinese consignees themselves shall report at the customs and pay the duties on goods coming to them in foreign ships, without being backed by the foreigner; non-compliance to subject the Chinese to a penalty of a double duty and the foreigner to be fined by his con-

sul to the amount of a full duty on such goods. Were this done, while the native and the foreigner would each retain their own special advantage in any transaction, the complications arising from a confusion of interests would be avoided, and no wrong be done to the national revenue; the honor and good faith of the foreign merchant would be made apparent, and there would be no anxiety as to illegalities eventually arising from these present concessions. But the foreign merchant will make a poor return to China if, in spite of her liberality to him, he insists on abetting the native in his frauds, while in the future conduct of business difficulties will certainly arise.

The above is submitted for your excellency's consideration.

B No. 3.

*Memorandum of increase of duties proposed by the Foreign Office.*

Tea, present duty, 2.5 taels per pecul; proposed duty, 5 taels per pecul.
Silk, raw, present duty, 10 taels per pecul; proposed duty, 20 taels per pecul.

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C.

1. The three memoranda formerly sent will have already been taken note of by your excellency. We now again proceed to address you on the points still under consideration.

2. [a.] Heretofore, Chinese merchants taking foreign goods into the interior, and who had not procured transit certificates from the customs, have, of course, had to pay duties and taxes at every office and barrier passed by them. Even in the case of foreign merchants themselves, those who take foreign goods into the interior without transit certificates are rightly subject to the same treatment.

[b.] Your excellency now wishes foreign and native merchants to be on the same footing [in respect of privileges to be enjoyed by those] who take foreign goods inland

[c] After much consideration [we have resolved to propose that] opium excepted, all foreign goods, on arrival in port, shall pay to the customs, at one and the same time, both tariff, import duty, and treaty transit dues; and that thereafter, no matter whether found in the hands of native or foreign merchants, such goods, if covered by transit certificate, shall be entirely exempt from every species of taxation. The transit certificates shall be issued [at the time of payment of duties] alike to natives and foreigners; and should there be any violation of regulations, the native merchants will be subject to the same penalties as the foreigner.

3. But as regards the foreigner, who in China engages in trade in native produce, nothing is easier at present than for the native merchant to be placed, through his operations, at a disadvantage that is far from fair. For—

[a.] The foreigner who takes Chinese produce to foreign ports interferes in no way with Chinese trade, and in his case no comparisons need be made between him and the native in respect of the duties paid by each.

[b.] But when the foreign merchant either, first, buys produce in the interior, conveys it to a treaty port for sale; or second, having bought produce from the interior, sells it at the port without shipping it to another port, the fact is that such produce, on the road from the place of purchase to the port, has been freed from the many taxes at the many places to which produce in the hands of native merchants is liable; and the result is that not only is Chinese revenue thereby a sufferer, but Chinese native trade, properly so called, is affected most detrimentally.

4. Under such circumstances, we cannot but propose that some distinction be made. No new rule is required for such foreign merchants as, first, buy produce in the interior themselves, and ship it to foreign ports; or, second, who buy produce at the ports which while in the hands of Chinese had, in coming from the interior, paid inland dues, and ship the same either to foreign countries or to other Chinese ports; for in respect of such doings the treaty provision is ample enough.

5. But as regards those foreign merchants who have bought produce in the interior and brought the same to a treaty port under a transit pass, paying simply a transit due—if they then sell it to Chinese merchants it will have thus been enabled to avoid the many inland taxes levied at many points; and even if the same goods should be shipped to another treaty port, and be thereafter—as present regulations provide—subject to local taxation in common with all other Chinese goods, they will still have avoided the special taxes that they ought by rights to have paid during the first part of their journey from the place of production to the port of shipment. In both the cases referred to, the goods can be laid down for a less price than if they had been all along in the hands of a native merchant. Hence the necessity for a fair rule insuring for each merchant similar treatment.

6. But here is the difficulty: How are we to know what goods are to go to foreign countries; what to other Chinese ports; or what are to be disposed of at the first port

to Chinese? This difficulty of dividing the various kinds of produce into classes to receive different treatment according to difference of distinction, opens a door to abuses, and necessitates the establishment of some special regulation for the repression of fraud.

7. What we have to propose, then, is this: That native produce *brought from the interior under a transit pass by foreign merchants* on arrival at the barrier nearest the port shall then pay there both transit due and tariff export duty; and shall in addition lodge a separate amount equal to the transit dues as a temporary deposit. Produce which shall thus have paid at the barrier transit transit dues and export duties, and lodged an additional amount equal to the transit dues as a deposit, can thereafter be treated as follows:

[a.] If, within a term of three months, it is shipped to a foreign port, the amount deposited will be returned.

[b] If, within a term of three months, it is shipped to another Chinese port, the amount of deposits will be retained and entered in the accounts as a set-off against the many taxes avoided when protected by a transit pass.

[c.] If the term of three months expires without the shipment of the produce to either a foreign or native port, it may safely be inferred that it has been sold to Chinese at the port. Such a sale in our opinion would, properly speaking, render the goods liable to confiscation; but we also think that a difference may fairly be made between produce thus sold at a port *after* payment of a transit due, and produce sold while under the protection of a transit pass, but *before* payment of the transit due, and in reference to which latter the treaty states that sale *in transitu* will render them liable to confiscation. In this case too, then, the amount deposited ought likewise to be retained and entered in the accounts as a set-off against all the taxes that the improper use of the transit pass had enabled the goods to avoid. (Produce sold in transitu is of course to continue liable to confiscation.)

The mode of treatment which we thus propose is to meet the case of the foreign merchants who (in addition to carrying on their own foreign trade) desire also to engage specially in native business; such, of course, in fairness to the Chinese merchant, ought to be placed on the same footing as the natives who engage in the same business.

8. Produce purchased at the ports by the foreign merchant will simply have to pay its export duty at the time of shipment, as provided for by treaty.

9. The transit memorandum taken into the interior by foreigners who wish to make purchases inland, ought to be limited as to the time for which it is to continue valid.

10. Should the special tax barriers be hereafter abolished, and the old custom-houses re-established in the interior and along the Yangtsze, we might again rearrange these matters; in any case, the object in view is simply to place the Chinese and the foreigner on the same footing, so that neither may find himself more heavily or more lightly weighted than his competitor.

11. With regard to the special taxes levied and contributions called for by the Chinese government, [we have to repeat that] they result from the military necessities of the country. While the custom-houses in the interior are unable to be opened on the former scale, the government could not but place the burden on the trading communities; hence the less or more numerous inland barriers, and hence the lighter or heavier contributions demanded; hence, too, the fact that their continuance or disappearance has been altogether a matter of uncertainty. The more or less pressing nature of military requirements has called for concomitant increase or diminution; if troubles were altogether at an end, and supplementary details arranged for, the barriers would of course disappear one after another, and indeed already from time to time, in proportion as quiet has been restored, many have been abolished. But on this point we need not trouble your excellency by restating what has often been said before.

12. Your excellency has, amongst other things, proposed that the duties on several kinds of foreign goods shall be decreased; and on this point we are of opinion that—opium excepted, about which there is a special regulation—the tariff of imports and exports ought to be carefully revised, and the duties on all commodities be fairly fixed, so that each may be as much as possible in accordance with the principle on which the tariff is based, and represent *five per centum ad valorem*.

13. We now await your excellency's reply on the subject of the present communication, and also in respect of the matters treated of in the three memoranda formerly sent. We beg that you will soon favor us with that reply, for the ministers of the other treaty powers may have to be communicated with in order that the arrangements concluded between us may take effect on all.

AUGUST 1, 1868.

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## D.

LING-KWANG-SZ', *August* 5, 1868.

MON CHER COLLÈGUE ET DOYEN: It will be in your recollection that in November last I placed in the hands of the foreign representatives in Peking, a memorandum on

the present condition of the Chinese empire and its internal administration in connection with a revision of treaties. My object in taking this step, as I stated, was by a free exchange of opinions to arrive at a mutual understanding on the important question of a revision of treaties. Although no written communication was received from any of my colleagues on the subject, I was led to conclude, from what passed in conversation, that there was a very general opinion of the impolicy, in the present state of the empire, and during the minority, of seeking any such modifications of existing treaties as would necessitate fundamental or sweeping changes in the government and administration, to give them effect.

Entirely in accord with what I believed to be the general sense of my colleagues, I presented, in the following month, (December,) a note to the Foreign Office, referring to the approaching period fixed by the treaty of Tientsin for a revision, if demanded on either side, of the commercial rules and tariff, and suggested that a mixed commission should be appointed, to sit at Peking and make a preliminary inquiry into various alleged abuses, and failure in giving effect to treaties, and to consider the best means of removing such grounds of complaint, if found to exist, and affording, in compensation for loss and damage already sustained by the foreign trade, increased facilities for its extension.

The Foreign Office assented to my proposition, and for the last six months a mixed commission, consisting on the British side of Mr. Fraser, the senior secretary of the legation, and on the other part of two Chinese secretaries and Mr. Hart, inspector general of customs, has been sitting.

I caused a full exposition to be laid before the commission of all the grievances detailed in the printed memorials of the merchants, with which you are acquainted, and submitted various propositions calculated, in my opinion, to remove prevailing abuses and restrictions on trade, hitherto preventing its development, in violation of the spirit if not in all cases of the letter of treaties. The result has been a declaration on the part of the Foreign Office of its willingness to accede to many of the proposals made, to some unconditionally, to others subject to certain modifications in the tariff and trade regulations.

I have hitherto kept you, our Doyen, and my colleagues generally, informed of the steps I was taking, and the object I proposed to accomplish through the commission, and this with the utmost frankness: first, because any idea of obtaining exclusive advantages for British trade or interests was precluded by the favored-nation clause in all the treaties, and therefore there could be nothing to conceal; and second, because any good obtained for Great Britain must be for the common benefit of all, and consequently whatever might be done must in the end be acquiesced in by every other treaty power before any changes or modifications could be carried into effect.

The labors of the commission having now taken a definite shape, I am enabled, in further development of these views, to communicate the result, and invite the co-operation of my colleagues by the expression of their opinion as to the acceptability of such measures as are proposed for the purpose of giving fuller effect to existing treaties and increased facilities for trade.

I may premise, by way of explanation, that the greatest burdens and restrictions upon trade, and those the most loudly complained of by the several mercantile communities in China as a violation of treaty stipulations, were all connected with the *li kin* taxes at the ports and other localities, and the mode of collecting the transit dues. And it was precisely under these two heads that the greatest difficulties have been experienced in arriving at any satisfactory settlement.

Under both these divisions there was, in practice, a wholly irresponsible and arbitrary power of taxation exercised by the provincial authorities, which rendered perfectly valueless all limitation of tariff rates. At the ports, the moment that foreign goods passed into Chinese hands they were liable to a perfectly unlimited and varying taxation. In the interior the same evil was perpetuated, and transit certificates did not suffice to cover foreign goods in their passage to places of consumption, even in foreign hands; and in Chinese hands they were at the mercy of the taxing authorities. The same applies to tea and silk on their way to the treaty ports. Under such a régime, the tariff rates fixed by treaty ceased to be any protection, and the whole object of their stipulation was defeated. Duties to any amount might be levied at the caprice or according to the wants of the provincial authorities, even to a prohibitive extent. And they have in effect constituted so heavy a burden as in many branches of trade to have inflicted the most serious injury, and proved to be all but prohibitive.

After long discussion, it has been admitted that treaty rights were violated by such proceedings, and that foreign trade, whether in imports or exports, by payment of the fixed transit dues of two and one-half per cent., could be certificated to any part of the interior, even though in Chinese hands.

On the other hand, the Chinese officers insist on the unceded right of the territorial sovereign to tax all goods, whether foreign or native produce not so certificated, when circulating in the interior, to such extent as the wants of the state may render necessary. But they have admitted that this should be done under imperial and responsible

authority, and with communication to the foreign representatives, if not by public decree, so that these could have the means of judging of the incidence of such taxes, and ascertain that it did not fall disproportionately on foreign trade.

To give effect to these views, they propose that all imports should pay the transit dues on landing, at the maritime customs, receiving a transit pass certificating such goods free of all charges whatever to any portion of the interior, while in transitu, and before passing into consumption, abolishing by imperial decree all *li kin* and other taxes of whatever denomination, at the ports on foreign goods.

As regards the staples of the export trade, these can also be certificated for the ports and relieved from all further duties, provided that, if not shipped to a foreign country but to another port in China, they are then subjected to the same taxation as native produce in native hands. The inclosed draught of a note which the Foreign Office propose to write, if this should be agreed upon, will give the details of these measures.

It will be observed that the only possible objection to a payment of a transit due on *all* imports—that none ought rightly to be levied on goods sold at the ports—however true in theory, is of no weight when the right to levy that or five times as much, under another name, whether as an *octroi* or a *li kin* tax, the moment they pass into Chinese hands, is asserted and exercised. It is in the interest of the goods sold *sur place* even, to exempt them by a payment of two and one-half per cent. from uncertain and unlimited taxation, as they will be more salable and fetch a better price by reason of such exemption.

The inclosed memorandum concludes with a proposition to revise the whole tariff, with a view to equalize the rate on all articles to five per cent., excepting tea and silk, on which, in a former note, the Foreign Office had proposed that the duty should be doubled. This would not constitute a very heavy duty, judged by European rates of taxation, and it might well be compensated by the reduction of duty on many other articles which the proposed equalization would effect; although it is probable that such an increase would be very unpopular among the merchants, who, as a general rule, want everything reduced, and are never willing to listen to any reasons justifying an increase, though as a part of a general measure eminently calculated to benefit them.

These are the points affecting the tariff and taxation of trade. In various other directions they have expressed their willingness to make unconditional concessions, with the view of facilitating trade both in the interior and on the coast. These may be summed up thus:

1. The framing of a code and rules of precedure for mixed courts.
2. The establishment of bonded warehouses.
3. The payment of drawbacks in specie, if within the current quarter, and their receipt in payment of duties for three years.
4. To regularize payment of duties by fixing the value of sycee at each port.
5. To provide for steam requirements, by allowing foreign machinery and assistance in working coal mines.
6. To free dock materials from duty, and to admit all household goods and personal effects, not for sale, also free.
7. To issue an edict declaring the right to trade and temporary residence throughout the interior.
8. To authorize inland navigation by foreign vessels (not steamers) for the transport of foreign goods.
9. To assist the expansion of steam traffic on the Yangtsze river, by the addition of certain landing stages for shipment and landing of goods and passengers at certain places other than the ports already opened, viz: at Ta-tung, Ngan-King, and Wu-hu.
10. To open the port of Wan-chan between Ningpo and Fuhchaw, and also possibly others if desired.

They refuse to admit foreign salt, to allow steam navigation of inland waters, and right of domicile in the interior, unless as regards the latter. Treaty powers are prepared to renounce, in regard to such residents, the exterritorial privileges. These are the only three propositions discussed to which a negative has been given.

From this brief summary of facilities offered and advantages or concessions obtainable, I think, with the aid of the inclosed note, you and my colleagues will be enabled to form a clear opinion as to the policy of acquiescing in the arrangements now proposed, and as I desire, very much in the common interest, to learn with as little delay as possible how far your views and those of my colleagues generally are in accordance with my own, I think it proper, frankly and plainly, to put you in possession of these.

The British government is alone entitled, at the present time, to demand any revision, the date fixed for such demand on the part of other powers being more remote. I do not think, however, it is in the interest of any foreign power to press for any fundamental changes now; nor is her Majesty's government, even by treaty, entitled to demand anything beyond a revision of the trade regulations and tariff. Within those limits the Foreign Office has, I think, offered with good will to grant nearly all that could for the present either be wisely asked by foreign powers or safely granted by the Emperor

of China. If more were even to be extorted by pressure, I do not think it would practically be in the power of the Chinese government to give it effect.

I believe that the arrangement contemplated for the abolition of the *li kin* taxes, and the protection of all produce, foreign and native, in transit, (inland or coastwise,) if carried out in good faith, (and such I believe to be the intention and wish of the officials here,) will be an immense gain to all foreign trade, and effectually remove the greatest drawbacks and grievances under which it has labored since the last treaties were signed.

I believe that the other measures enumerated, from 1 to 10, include all that are most essential and immediately practicable for the improvement of our relations and the development of trade. With these convictions I am prepared to recommend their acceptance by her Majesty's government, leaving it open for further consideration whether any revision of the tariff, subject to the condition of an increased tax on tea and silk, shall be declined or accepted. And so, in like manner, as to the opening of more ports on the coast, about the advantage of which there is great doubt among the merchants themselves, and some conflict of opinion.

Of course, to give such action on my part practical effect it is necessary that her Majesty's government should also be advised how far my colleagues, the representatives of the other treaty powers, are disposed to adopt the same views, and make a similar recommendation to their respective governments; and it is with this object that I now write to you as our Doyen, and beg you to be good enough to enter into communication on the subject with the other members of the corps diplomatique in Peking.

I avail myself, &c.,

RUTHERFORD ALCOCK.

His Excellency A. VLANGALY,
*Envoy Extraordinary and Minister Plenipotentiary of his Imperial Majesty the Emperor of Russia.*

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E.

[Translation.]

*Mr. Lallemand to Sir Rutherford Alcock.*

PEKING, *August* 9, 1868.

Mr. MINISTER AND DEAR COLLEAGUE: Your letter of the 5th instant arrived on the 7th. In replying, I have waited until our dean should communicate the documents of which you spoke, which you had sent him. I have received them this morning, and I now proceed to give my opinion respecting them upon first impressions.

To put foreign commerce and Chinese commerce upon the same footing as far as possible is a just and worthy project—an encouraging one—and such is the tendency of the various measures proposed by the *yamun*. But would the ameliorations upon the present state of affairs, which would certainly result from the sum total of these measures, if carried into execution, be, or appear to be, sufficiently compensated by the raising of the duties upon silks and tea to the double of the present tariff? I somewhat doubt it, for the following reason: we know by experience, or we think we know, that the *yamun*, or rather the government of Peking, has no great control over the administration of the provinces; and that in the treatment—good or bad—of the commercial problem, it would be always the provincial functionaries who would play the principal part. We are consequently tempted to say: those ameliorations are offered us in good faith and good will by the *yamun*, as we are very ready to believe; but from the will to the deed, to the actual execution, there is an interval, for we know that the *yamun's* authority is not preponderant in the provinces, and that what it here promises us cannot perchance be executed, except very imperfectly, at a distance from Peking. What will be fully carried out, if we agree to it, is the collection of the double duty on teas and silks. We are then exposed, in conceding without any precaution the doubling of the duty, to pay down and without drawbacks for the advantages which have been given us on paper at Peking, (though in good faith,) but whose execution is uncertain and subject to eventualities. I should then be of the opinion, if the doubling of the duties on teas and silks were to be conceded, that it should only be after two years probation of the promised ameliorations, and after being assured that they have become a fact. This would be the price and the recompense of the improved *régime* which the Chinese had commenced.

As to the concessions offered, they are small enough we must admit. The right of navigating by oar or sail on the interior waters is scarcely a concession. It is the steam navigation that we want, and that we begin to need. Even supposing that it cannot be permitted upon the canals, which we may easily admit, it ought at least to be permitted upon the great lakes, such as the Poyang and others, where the uncertainty of the winds

causes much time to be lost by the sailing convoys. It would at least be necessary that the use there of small steam-tugs should be authorized.

I also consider as very meager and very timid the terms used by the *yamun* to open the foreigners access to the coal mines. "The employ of foreign material will be permitted, and the presence of foreigners for the exploitation of the coal mines." Could it not have said clearly: "The government authorizes foreigners to exploit coal mines, using their own material," and to make the establishments necessary for this purpose?

The right of temporary residence in the interior is not a concession. We already possess it; at least, according to the terms of the French treaty, there is no doubt about it. But as no use has been made of the privilege up to the present time, it is not a bad idea that an imperial decree should render public this right. The only limitation to it which we could admit, in my opinion, is that of owning real estate in full proprietorship; the privilege of having houses and stores, and of residing in them, ought to be complete.

With the reserve made in these observations, I ask nothing better than to recommend to the cabinet at Paris in their totality the propositions which you have received from the *yamun*, and it is probable that if they satisfy the (English) Foreign Office there will be no greater difficulty at Paris than at London. I do not think, however, that we shall be disposed to renounce expressly and beforehand the right of revising our treaty in 1870; it does not appear to me that it would be for the common interest that we should do so. There are besides, in the treaty, one or two clauses relating to the liberty and security of missionaries and Christians, which are not explicit enough, and which have not had the effect we contemplated.

I should be of opinion, if my advice were asked, that these clauses should be revised; but they relate only to France, and do not affect the condition of other nations which have treaties with China. * * * * * *

With a thousand kindly compliments,

A. DE LALLEMAND.

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## F.

### *Mr. Williams to Sir Rutherford Alcock.*

PEKING, *August* 13, 1868.

MY DEAR COLLEAGUE: I have carefully looked over the papers which you gave me relating to the revision of the British treaty, and desire to express my gratification at the encouraging evidences they exhibit of progress on the part of the Chinese in understanding their political and commercial relations with other nations. The different position of things between Great Britain and China, under which the present discussions have been carried on, and those attending the two former treaties of 1842 and 1858, forms of itself one of the most marked evidences of beneficial progress in this part of the world.

The two noteworthy points in this *précis* relate to the establishment of the mixed court, and to the regulation of the *li kin* and other unauthorized taxes on the trade—points which, if once well established, will gradually work out most desirable results. The mixed court will become a school of instructive practice to the native officials connected with it, and I should think serve even as the beginning of a reform in the jurisprudence of the country; and we both know that that means to change judicial wrong and torture into just and legal punishment, directed by officials acquainted with their duties. It is a great step to get the Foreign Office to initiate such a court, even though its slow progress be attended with many drawbacks, and I shall most earnestly support its establishment.

It will be of lasting service to the trade if you can induce this government to subject such capricious levies as the *li kin* taxes to some well-understood control. In a country where an income tax is impossible and an excise tax is vexatious, and the duty on imports and exports fixed by a treaty, the rulers may, perhaps, be excused for increasing their uncertain revenue by imposing transit and other charges on produce and cargoes as they can; but if they can be only brought to see the advantages of a legal well-known rate of charges, by seeing that they produce more revenue with less irritation, the advance will be great. I think that your proposition to have all these uncertain charges brought under the cognizance of authorized accountable officers has everything to recommend it as a practicable solution of the present grievances. I am afraid that it may fail of doing even what we reasonably look for, but it is much to have the new plan agreed to and tried.

In regard to alterations in the tariff, (whose revision comes within your plan,) it will perhaps be advisable to restrict them to bringing every article under a uniform rule of five per cent. *ad valorem* on all imports and exports. The list of free might be made more precise with advantage, so as to avoid in future some disputes which have already

arisen as to the kind of articles included under such general terms as *ships' stores* and *household stores*.

The 10 points specified in your minute include some of considerable importance, and I agree with most of them as beneficial and practicable. I am afraid that all rules will be inoperative in respect to the fourth rule, however, as long as the money of China is of account, and no currency in the proper sense of the word is issued by government. I do not believe any rules can regulate the purity of sycee; for when the Chinese are able to maintain a gold and silver currency, then only will their bullion conform to it. From the nature of the case, all efforts to regulate its supply, quality, or exchange will, I fear, fail.

The opening of new ports involves so many other points than merely finding new marts for trade, that we hesitate, especially when it is seen that of the old ones Kwing-Chan, in Hainan, has not been occupied, and others have disappointed their promise. To the three proposed stopping places on the Yangtse, I would add Kwnchau, or a convenient place opposite Chinkiang, unless this port can be extended so as to include a landing place on the northern bank of the river, within its own jurisdiction. Then, too, the port of Kinkiang might be extended to include Hukan, at the mouth of the Poyang lake, for the strong current prevents native boats from getting up to Kinkiang, about 18 miles distance. This disability is so great, and causes so much delay at the entrance of the lake waiting for a fair wind, that many of them take a circuitous inland route in preference. But on this last point I suppose a joint commission could get all the information in good time respecting all the ports to be used as stopping places along the river, and their report would furnish reliable data.

The minute furnished you from the Foreign Office respecting the modifications which its members can see their way clear to adopt in the treaty, does them much credit in its spirit and argument, and is another evidence of progress and assimilation of ideas. While we are urging our privileges, they claim that native merchants should not be, in their own country, placed on a worse footing than foreigners—a most reasonable demand.

In fine, my dear Sir Rutherford, I congratulate you on the progress made, as shown in the result of your discussions upon the proposed alterations in the British treaty. It is a victory of peace, and perhaps more permanent than one of another kind. The points which the Chinese have refused are those on which they feel that neither they nor their subjects are yet ready; but these, and still greater changes, will, I hope, be introduced among them, in the same peacefnl manner, as they are prepared to receive others by the natural, gradual results of the causes now going on. In effecting this, however, harmony of action among those engaged in the work is exceedingly desirable.

Very respectfully, your obedient servant,

S. WELLS WILLIAMS.

Sir RUTHERFORD ALCOCK, K. C. B., *&c.*, *&c.*, *&c.*

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## G.

[Translation.]

TA-CHIAO-SZE, *August* 18, 1868.

MY DEAR COLLEAGUE AND DEAN: In sending you the adjoined documents, in which Sir R. Alcock has communicated to us the result of his negotiations with the Chinese government respecting the revision of the treaty of Tientsin, I hasten to give you an account of the impression which their persual has caused me, as our colleague from Great Britain has desired I should do.

But before entering upon the examination of the different questions which here occur, I ought first to recall to you that in the treaty concluded in 1861 between Prussia and the other German states on one side, and China on the other side, a period of 10 entire years from the day of the ratification was stipulated for the revision of the treaty, so that the states interested are not called upon to demand any changes whatever, either in the tariff or in the commercial regulations in general, until the expiration of this period of 10 years, *i. e.*, in 1872. In taking, then, an active part in the negotiations between Great Britain and China concerning the revision of the treaty of Tientsin, the German states cannot and ought not to renounce their right of demanding in their turn, in 1872, the changes which they shall judge expedient to solicit. Much the less ought they, in my opinion, to renounce that privilege, since that year bids fair to be more favorable than the present moment for obtaining important concessions, in consequence of the changes which will then have taken place in the highest spheres of government, as well as in the spirit and the sentiments of the people. This very natural reservation will, I am convinced, be also made by the other governments which have made treaties with China, and I might perhaps have omitted to touch upon this point if the concluding passage of the Chinese memorial, in the following terms, "We

ought to communicate with the other representatives of foreign countries in Peking, in order that the arrangement concluded between us may have a general effect." did not afford reason for supposing that in the opinion of the Chinese ministers an adhesion on the part of other governments to the present arrangements between China and Great Britain would necessarily imply, on their part, a renunciation of any eventual revision at the period fixed upon by the different treaties. If such were the intention of the *yamun*, it would be an unacceptable condition, and the other governments would not, in that case, have any other alternative than to demand simply, by virtue of the clause of *the most favored nation*, all the advantages now obtained by Great Britain, and to await the period fixed for the revision of their respective treaties. In such a case, I should consider it a duty not to leave the Chinese government in any doubt in this respect.

Aside from this limitation, I am of the opinion that the interests of all the foreign governments in regard to China are identical, and that they owe to each other mutual assistance in all cases in which an effort may be made, either to obtain new concessions of general interest, or the redress of just grievances on the part of all the governments, or of one of them. In this connection, I think that all the governments are interested in the revision of the treaty of Tientsin, which is, so to speak, the foster-father of all the other treaties, and that they ought to sustain, as towards the *yamun*, all the reclamations of a general interest which the representative of her Britannic Majesty is now advancing with a view to the revision of the treaty of Tientsin. I am thus entirely ready to act in this spirit whenever I may be called upon to do so, feeling certain beforehand of meeting in this way the approbation of my government.

As to what relates to the different questions which have been discussed in the mixed commission, and to which Sir Rutherford alludes in his letter, I must avow, to my great regret, that I have not advanced as far as I should desire to have done before giving an opinion on the subject, with reasons therefor. I could wish to be cognizant of the negotiations which have taken place respecting some of these questions, especially those which concern the tariff and the proposition to double the duties on tea and silk; and the communication of the three memoirs of which the *yamun's* last memoir makes mention would, perhaps, be very useful, in order to judge of the opportuneness and the possibility of these important changes in the tariff.

If I have fully comprehended the spirit of the negotiations which have taken place upon the revision of the treaty of Tientsin, the representative of Great Britain would seem to have taken, as his point of departure, a conviction that the treaty in itself is good, and does not demand any alteration in its principal stipulations, which are in harmony with the actual state of China, but that it is chiefly the strict execution of the treaty which has hitherto been wanting, and which it is necessary to assure for the future. It is in this point of view that the interests of all the powers are a unit, since they all equally suffer obstacles regarding these stipulations with which the ill-will and the rapacity of the Chinese administration has succeeded in surrounding all commercial transactions between foreigners and natives, notwithstanding the clear stipulations of the treaties. But nothing, in my opinion, has more contributed to denaturalize the commercial relations of China with foreign countries, than this system of arbitrary taxation, which, under the names of *likin*, taxes of war, transit duties, and others, have long weighed upon all foreign merchandise—and even upon native merchandise—when it passes from hand to hand, and I cannot but applaud the determination to make these abuses cease by virtue of a revision of the treaty of Tientsin.

As far as I am now able to judge, the proposals made for this purpose seem to me well conceived, and they offer perhaps the only means of remedying the abuses mentioned. In general, the principle of placing natives and foreigners upon the same footing seems to me founded in justice. It offers, besides, the advantage of terminating the animosity produced between the two parties in consequence of their difference of position and the inequality of the burdens weighing upon them. We cannot, however, refuse to take into consideration the fact that the foreign merchants will lose some advantages under the new order of things, and that they will be obliged to purchase the execution of a right guaranteed by treaties, by the payment of a transit duty of two and a half per cent. on all imported goods. The result will depend exclusively upon the spirit with which the central government and the local authorities undertake the execution of the new measures, and I do not see any other guarantee against the renewal of infractions of the treaties than the good-will—at the least, doubtful—of the local authorities.

As to the proposal to replace all the provisions of the tariff, except tea and silk, by a duty of five per cent. *ad valorem*, I cannot now pronounce an opinion, and I must reserve upon this subject the opinion of my government. To double the duty upon tea and silk, almost the only articles of exportation which China affords, seems to me a measure which certainly would produce serious reclamations from the Chambers of Commerce in all countries. But as the interest of Germany in relation to these two articles is secondary to that of Great Britain, France, Russia, and America, it seems to me that the decision will depend solely upon the opinion of these governments.

In the Chinese memoir, nothing is said of the articles which have been hitherto imported duty free, and it remains to be known if, in the opinion of the *yamun*, they will continue to enjoy this exemption, or if they are comprised in the general tariff of five per cent. which is hereafter to be collected. This question is quite important for Germany, as many articles of its industry are specified in the treaty of September 2, 1861, among goods imported duty free. The same is the case respecting materials intended for the construction and provisioning of ships, as well as objects of household use, and personal effects, which, according to the plan of reform will, in future, only enjoy an exemption from duties in case they may be destined to the personal use of the importer.

To tell the truth, I fear that this idea of having only a uniform tariff of five per cent. for all kinds of goods may not present a great difficulty in coming to an understanding, as the tariffs of the different treaties are calculated according to the demands of the industries of each country, and I do not think that the government can abandon this principle unless great compensating advantages be offered them. I do not see in this proposition of the Chinese government anything beyond a desire to simplify the operations of the custom-house; and, in this case, it would be only a measure of convenience for the administration, which could only be adopted in case that its execution should be possible without injury to the important interests of different States and their industries.

According to the opinions set forth in the famous memoirs of Tsang Kwohfan and his colleagues, I have not been surprised to learn that the *yamun* opposes the *non possumus* to the admission of foreign salt from steam vessels, and of the right of domicile in the interior. The refusal to admit salt is explained by the circumstance that this article is a monopoly in China, and that commerce in it is prohibited to the natives. The navigation in the interior, which, years ago, was eagerly desired by European commerce, was that by sailing vessels, which is no longer of great use at present, if steamers are excluded. Perhaps it would be possible to admit little steamers on the lakes and the great rivers.

The vital question—that which presents at the same time the most serious difficulties—is, undoubtedly, the privilege of residing in the interior; that is to say, the right of acquiring property outside of the open ports on the coasts. If, on the one hand, the foreign representatives are not in a state to sufficiently protect their citizens established in the interior, outside of the sphere of action of the consuls, it appears inadmissible, on the other hand, that the Powers should renounce jurisdiction over their citizens established in the interior, according to the conditions proposed by the *yamun*, since they could not practically refuse their protection to those among them who may have serious grievances against the Chinese governmental authorities. The difficulty would remain the same if an occasional merchant had succeeded, under favorable circumstances, in establishing himself in the interior without having subscribed to the condition demanded of him by the Chinese government. Keeping in view these difficulties, one would be tempted to believe that the right of traveling, buying, and selling freely in the interior might, for the present, suffice the demands of foreign commerce.

Unless I deceive myself, the views of our colleagues upon these different points are very nearly the same as my own, and it seems to me too difficult a thing to render uniform the interests of all parties concerned. The only serious difficulty might be brought about, as I have suggested above, by the unification of the tariff and the project of doubling the imposts upon tea and silk. In every case I avow myself incompetent to pronounce, at present, upon this matter with a decisive opinion.

While submitting to you these observations, my dear colleague, and begging you to communicate them to our colleagues, it only remains for me to add that I shall hasten to report in the same spirit to my government, and that, meanwhile, I am entirely ready to concur, to the limit of my powers, and with the restrictions above indicated, which are imposed upon by the nature of things, for the establishment of a preliminary understanding in relation to the revision of the treaty of Tientsin. I have thought it useless to enter anew here upon a discussion of the questions which would need radical changes in the politics and the administration of China, since the exchanges of ideas which have recently taken place show an entire identity in the views of our colleagues, and the conviction of us all that the present moment is not favorable to put them forward.

Please to accept, &c., &c.,

REHFUES.

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## H.

[Translation.]

KWANG-SHAN-SZ', *August* 26, 1868.

MY DEAR COLLEAGUE: The minister of France having replied to you directly upon the subject of your letter of the 5th instant, and of the Chinese memoir annexed to it,

I hasten to send you adjoined the communication of our colleague of Prussia, adding to it my own impressions.

But before entering upon the question, permit me to express to you my profound gratitude for the obliging communication which you have made us on the result of the inquiry which has been arrived at by the mixed commission which you had established by agreement with the *Tsungli-yamun*. I had scarcely hoped that the Chinese ministry would consent to the modifications and to the concessions emunerated in the documents which you have had the goodness to communicate to us; notwithstanding which, I doubt if they will satisfy the demands of foreign commerce, which are very frequently excessive.

The tendency to put native merchants on the same footing as foreigners is very equitable, and we cannot but encourage the Chinese government to march in this direction, so beneficial to all.

One of the principal demands of foreign commerce is the privilege of residing in the interior. I think this is the only remedy against the abuses of custom-houses and of internal barriers. Since foreigners are permitted to travel in the interior, I do not see why they should not be permitted to buy there the products of the country for exportation, and to sell foreign imported goods. I freely admit that the Chinese government would not wish to permit to individuals not subject to its jurisdiction the purchase of landed property outside of the ports open to commerce; but I think that foreign merchants may be permitted, without serious inconvenience, to make purchases of merchandise for exportation upon the spot of production, by paying the transit duty established for that purpose. The same in regard to imported goods; it is not just to prohibit the foreign merchant, who has paid the right of transit, from taking his goods to the places where he expects to sell them most easily.

It would then be desirable that the Chinese government should permit foreigners to have deposits of their goods in whatever places they may find convenient; whether in the centers of production or in the localities of the great fairs. It is necessary that the merchant, as he buys, should place in deposit some of the acquired productions; and likewise that, as he brings in foreign goods, he should have a place to store them. As there can be no property held outside of the ports open to commerce, he must necessarily hire store-houses, which is so far a disadvantage as compared with the native Chinese merchant, who, besides being able to own his own store-houses, has the means of renting them at fairer prices, and, above all, of opening shops and selling by retail not only foreign merchandise, but also the productions of the country whose sale may happen to be prohibited to foreigners.

I would even go further and say that we might *provisionally* forego the conceded privilege of transit, and consent to pay the duties charged at each barrier or custom-house in the interior, provided the amount of the imports were previously, and from a year in advance, made known to the consuls and to the public. This measure would also be a restraint upon the vexations to which Chinese merchants themselves may be exposed by the lesser mandarins of the customs barriers.

As to what relates to the difficulty presented to the Chinese government by the right of ex-territoriality which foreigners enjoy, I think that certain cases might be specified in which the local authorities of the country might be empowered to arrest a foreigner and conduct him to the nearest consulate, or even set seals upon merchandise, on condition of immediately turning over the matter to the consul, as in the previous case. These grave occurrences not being numerous, it would not be difficult to regulate the mode of procedure.

The permission of navigating the interior waters with sailing vessels is certainly a great concession on the part of the Chinese government, but for it to be profitable to foreigners they ought at least to be permitted to have little steam-tugs on the great lakes, as this would remedy the slowness of transport, of which there is so much complaint.

There is still another question which I do not fully comprehend, *i. e.*, the proposal of the *yamun* to double the imposts on tea and silk, in compensation of some other diminutions in the tariff. Among the objects of exportation, tea and silk occupy the first places. I can understand that the forced exportation of silk may prove prejudicial to the manufactures of the country, and that the latter industry should seek encouragement in this way; but tea is upon a footing entirely the reverse, and the direct advantage of the country would require the encouragement of its production and exportation. The teas exported from China include species not used by the natives, so that they are, so far, a product purely for exportation. Besides, the imports on tea are already considerable, even much more than 10 per cent. *ad valorem*, and if there were to be any modification in the direction which the *yamun* desires, it would be rather to classify the teas in several categories, according to their values, since at the present time the yellow and green teas of highest value pay but the same duties as the black teas very inferior to them.

These are, my dear colleague, the principal points which, according to my ideas, would complete the work of the mixed commission mentioned at the outset of this

letter. I think that they are essential, and that they would assure in a greater or less degree the execution of the commercial spirit of the treaties.

As to the memorandum of the *yamun*, of which you have obligingly transmitted me a copy, I shall have but two remarks to make, and those of slight importance. In article 7, instead of leaving as a temporary deposit a sum equivalent to the transit duties, that, according to what is done in other cases, the merchant may execute a bond to the required amount; and further on, the delay of three months indicated for the confiscation of the deposit made at the barrier or at the custom-house seems to me insufficient.

Deign to accept, upon this occasion, my dear colleague, the assurances of my high consideration.

A. VLANGALY.

His Excellency Sir RUTHERFORD ALCOCK, K. C. B.,
*Envoy Extraordinary and Minister Plenipotentiary of her Britannic Majesty.*

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I.

LING-KWANG-SZ', *September* 10, 1868.

MONSIEUR LE MINISTRE AND CHER DOYEN: The Prussian minister, in his reply to my former communication respecting the negotiations in which I am engaged with the Foreign Office, in anticipation of a revision of the commercial articles and tariff of the treaty of Tientsin, expressed a regret that he had no cognizance of the three memoranda to which the ministers made reference in the note I forwarded to you for the information of my colleagues. I beg, therefore, to inclose the memoranda in question for communication to the foreign representatives.

I have sent a collective reply to them, with a separate memorandum on the general revision of the tariff, stating my reasons for concluding the present time to be inopportune, and proposing to defer all further consideration of the subject. In my general reply I have availed myself of the frank expression of opinion of my colleagues as to the proposed modifications in the commercial rules, &c., to point out to the prince and ministers the unanimous feeling of regret and dissatisfaction at the restrictions attached to navigation of the inland waters, residence in the interior, and the working of mines; these otherwise large concessions being deprived of much of their value by limitations calculated to render them practically useless. This joint remonstrance may possibly induce the *yamun* to reconsider the subject, and in some degree modify their views as the expediency of a less restrictive policy. In any case I feel assured that you and colleagues will approve of my having communicated our common sentiments on the subject.

The Baron de Rehfues will see that I entirely concur with him in deprecating at this moment any general readjustment of the tariff, and have never contemplated proposing it. As to the right of revision reserved by the French and Prussian treaties at later periods, I do not conceive that any concurrence in the partial revision which may follow, of the British treaty, can be rightly construed as prejudicing their independent action when their respective periods for revision may arrive. But my colleagues will take such steps, of course, as they may deem expedient to prevent misapprehension in such a matter. I have only sought their co-operation because any changes, either in the commercial rules or tariff of one treaty, react on all; and in some cases, as in the proposed compulsory payment of the transit due of two and one-half per cent. upon all imports of foreign goods, and their collection by the maritime customs in the manner of other tariff duties, can only be carried out as a general measure and by common consent. And as the object is to strike at the root of all *irresponsible powers of taxation* upon foreign trade, and to take from the local authorities all pretext for levying the *li kin* or any other tax upon foreign trade, such transit duty once paid, and thus remove the greatest grievance of the merchant, and the worst obstruction to the extension of trade, in the interior, I conceive this would be cheaply purchased even by an addition of two and one-half per cent. to the import duties.

Such, however, is not the effect of the proposed arrangement; for as much the greater part of foreign imports are sold to proceed into the interior, they necessarily have to pay the two and one-half per cent. transit due, or to run the gauntlet of a hundred barriers with unlimited powers of exaction and taxation. Even for the small fraction sold for consumption at the ports, the foreign merchant has everything to gain, if by payment of the transit due of two and one-half per cent. he can secure their exemption from the *li kin* and other local taxes which have been persistently imposed upon the native purchasers even within the limits of the port to a large extent.

You and some of my other colleagues have expressed great doubts as to the efficacy of any arrangements to put down these illegal and wholly uncontrolled taxes. Nor can any one feel perfectly assured of the result until tested by experience. Yet it is much to have obtained a distinct renunciation of the *right*, hitherto obstinately main-

tained, of taxing all trade within the Chinese territories for state purposes, and a declaration that under no circumstances can any overcharge beyond the tariff be levied on foreign trade in exports or imports, without imperial authority and the previous sanction of the foreign representatives. Whatever difficulty may be experienced at first in giving practical effect to these fundamental principles, their publication by imperial edict will strike at the root of the present abuse of taxing power in the hands of irresponsible and provincial authorities; and I cannot doubt be productive of far greater benefit to trade than many more imposing-looking concessions—than any rights of residence of foreigners, or their navigation in the interior, or working of mines—for which, in my opinion, neither foreign merchants nor the Chinese people are yet prepared, in their ignorance of each other's language and the unsettled state of the country, to turn to much present advantage.

I avail myself of the present opportunity to assure your excellency of my highest consideration and respect.

R. ALCOCK.

To his Excellency A. VLANGALY,
*Minister of Russia.*

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J.

*Note for communication to the Tsungli-Yamun on the several memoranda addressed by the ministers during the past month to the British representative on the revision of the tariff and commercial rules of the treaty of Tientsin.*

The several memoranda lately received from the *yamun* have been carefully considered, and the undersigned British minister has only deferred his reply to give time for communication with the representatives of foreign powers, whose opinion as to the expediency and sufficiency of the modifications proposed it was desirable to obtain before any final step was taken in matters affecting the commercial interests of all.

The general result of the labors of the commission, together with the propositions of the *yamun* conveyed in these memoranda, having now been made known to all the representatives in Peking, and their views upon the subject communicated to the British minister, he is at liberty, with the advantage of such knowledge, to deal definitely, as he trusts, with all the various questions which have been under examination and discussion by the mixed commission during the past six months.

In response to the replies of the *yamun*, in which they acknowledge the friendly spirit in which the propositions of the British minister were originally conceived, he desires to assure the prince and ministers that nothing is to be gained by negotiation for the exclusive advantage of either nation to the prejudice of the other. For British trade to flourish in China, it is necessary that the Chinese interest shall flourish too, and the nation derive benefit from its extension. In measures to be adopted to this end, it is clear that the interests of both must be consulted, and a principle of reciprocity recognized in all things. On no other basis can any permanent relations of amity and commerce be established. With these convictions, the *yamun* may rest assured that no propositions will be made by the British minister at variance with them, or discussed, except in a spirit of fairness, with a desire for mutual accord and a reciprocity of benefits.

The undersigned cannot conclude these preliminary remarks without acknowledging the ready response made by the prince and ministers to all his suggestions, and the good-will they have so constantly shown in the consideration of all the questions brought to their notice through the commission. Several of these affected great financial interests, and, indeed, nearly concerned the whole fiscal administration of the provinces, demanding, therefore, both patience and temper for their adequate treatment. They have been discussed without acrimony or a sign of irritation on either side; and if the result has not been a perfect accord in all things, which could hardly be expected, it has led to a mutual agreement as to the practicability of a great many much-needed measures, and a better understanding as to the desirableness of others in the way of change and improvement, for which the fitting time has probably not yet arrived.

The object of the commission was to examine into the chief causes of complaint set forth in the numerous memorials of mercantile bodies at the ports; and to consider by what means these could best be removed, and remedies provided. It was easy to ascertain from them what were the principal grievances, and how their remedies were to be sought, for the unanimity of the memorialists on both heads was conclusive.

The treaty of Tientsin had for its main object the protection and development of trade in China, not along the coasts or at certain ports merely, but throughout the whole country. The merchants point out that three conditions are essential to this end, which were provided for by treaty stipulations:

1. That there should be a fixed tariff of duties agreed upon by the respective gov-

ernments, and that no local or provincial taxes in excess of the tariff should be levied on foreign trade without the sanction of foreign representatives.

2. That liberty should be given to traverse the country in all directions for the purposes of trade, and freedom, under license and consular control, to merchants to reside in the interior wherever centers of production or consumption might make the establishment of depots necessary, and their presence essential to the successful prosecution of the trade.

3. That means of communication and transport between these different points and the coast should be adequate for the requirements of trade, without which no large and profitable inland commerce is possible; and if those already existing in the country be insufficient, that liberty should be enjoyed to increase the facilities for both.

It is unnecessary to enter into an agreement to show that there is nothing specified under these three heads which is not either expressly stipulated for, or directly implied, in the several articles defining commercial privileges, and in strict accord with the whole context, as well as the spirit and object of the treaty. The close examination which the subject has received during the past months has led to a general agreement in principle, leaving only a discussion as to the means of carrying out these stipulations compatible with the present state of the country. The bona fide admission of English goods, if it is to be more than a mere nominal privilege, carries with it whatever may be essential to its full enjoyment, without stipulating what are the means necessary to this end; for it is sufficient to show that any particular facility is essential to the fruition of the primary right, to establish a derivative right on the basis of the first.

Under the second and third heads, therefore, the only question is, can the requirements of trade be adequately met in the interior without a right of residence and the possession of depots, and without improved means of transport and communication? If not, then the limits and conditions under which it can be carried into effect remain to be considered. It is here only that any material difference of opinion has arisen, and still to a certain extent exists. The *yamun* proposes that the right of residence should be limited to a temporary sojourn in boats or inns; and the right of inland navigation for transport of goods to vessels propelled by sails or oars. The merchants, who know best what their trade requires, demand the faculty of acquiring land and houses in like manner as at the ports, and railroads, telegraphic lines, and steam-vessels for means of transport and communication.

Between these two schemes for advancing trade and giving effect to treaty rights there is a wide interval. If the merchants, in demanding the right of living in the interior on their own property, and railroads, telegraphs, and steamers for communication, do so with little reference to the state of the country, or what may be practical or expedient in the interest of all parties, the *yamun*, in the opinion of the representatives generally, stops short of what may reasonably be required and safely conceded.

It is conceived that, with exterritorial rights existing, and in the present unprepared state of the country, with no common language to serve as a medium of communication between the races, rights of real property and domicile in the interior can neither be equitably demanded nor safely conceded. But storage for their goods and the consequent faculty for renting houses and godowns at certain points is essential, together with such rights of residence as the interests engaged may indicate within specified limits.

If the *yamun* has deliberately decided that the time for themselves creating railroads and telegraphs, or safely permitting foreigners to introduce them, has not yet arrived, without contesting such an opinion, in which the representatives do not certainly all concur, still a limited application of steam should be conceded as essential. They would be willing in the first instance to see this confined to the employment, under license and custom-house regulations, of a small number of *tug-boats* on the great lakes, as the Poyang, or a small class of cargo-boats propelled by steam to be solely used for carrying goods in which foreigners had a bona fide interest, so as to avoid injurious competition with native traffic and means of transportation.

Considering how small a portion of the whole inland trade of China the foreigners' share can be, it is impossible that a privilege so carefully restricted could materially interfere with the native interests, or their means of existence. Nor, considering the small size of the proposed steamboats, and the strict control under which they could be placed, is there reason to anticipate danger to life or property from their use on the lakes. This would not give any undue advantage to foreigners over natives—first, because it is open to all natives to employ the same means; and looking to the large amount of Chinese capital already invested in steam companies, and the free use by native merchants of steamers in their coasting trade, it is not probable they will be slow in availing themselves of whatever improvements foreigners may introduce; secondly, because, even if they did not, any advantage gained by foreigners in better means of transport would not compensate for their disadvantages in being compelled to hire houses and storage from natives, instead of having their own. They will be called upon, too, to pay more than a Chinese trader would be asked for the same accom-

modation; and as foreigners, will also be in a thousand ways at a disadvantage with the natives.

In both these directions, the undersigned is bound, therefore, to urge upon the *yamun* some further concession than has yet been made. This is in accordance with very strong opinions expressed by his colleagues of their insufficiency. Without some less timid advance in the way indicated, grave dissatisfaction will be felt with the present arrangements, both by the merchants and by foreign governments, however satisfactory and liberal may be the measures proposed under other heads. In that case, nothing as regards those other powers could be considered as definitively settled, even if the undersigned were disposed for the present to trust in the certainty of progress from small beginnings.

In this matter, and in the working of mines alone, is there any strong feeling that the revision now proposed will be nugatory and incomplete if carried out as at present contemplated by the *yamun*? It is felt that to give foreigners a right to assist in working mines and use their own machinery, but still deny them houses and workshops, or any copy or leasehold interest in them, will most likely fail in its object. If foreigners be not allowed freely to enter into arrangements for renting or leasing from the proprietors such mines as are worth working, neither capital nor the best skill will be available. The power to purchase proprietary rights is not absolutely necessary for successful working, but the permission to erect workhouses and other accommodations is indispensable. If foreigners are to engage at all in developing the boundless mineral resources of China, now lost to its government and people for want of engineering knowledge and machinery, it is certain that these further facilities can be deferred for only a short time, and would better be granted at once than withheld until natives and foreigners are driven to combine together in evading regulations only calculated to impede the development of all mining operations.

The right to the permanent residence of foreigners in the interior has been so fully conceded to one class—the missionaries—with liberty to acquire both lands and houses, that it seems inconsistent and invidious to deny a modified privilege of the same kind to merchants, who, besides being under consular control, furnish, in the interests they would have at stake, security for good conduct. The sixth article of the French treaty stipulates "that it is permitted to French missionaries to rent and purchase land in all the provinces, and to erect buildings thereon at pleasure;" and what is permitted to the French missionaries is equally so to all other missionaries; why, then, should a similar right be denied to the merchants? Of the two classes, it is impossible to doubt that the latter are least likely to give trouble to the authorities, or create popular disturbance, as experience tends to prove.

These questions have been dealt with first, because they are those upon which alone there is any serious divergence of opinion between the Foreign Office and the foreign representatives generally; and in the hope that the prince and ministers will once more take the several points here urged into their consideration, and remove the sole remaining obstacles to a good mutual understanding on matters of so much importance.

With regard to the levy of *li kin* and other taxes in excess of the transit dues fixed by treaty, the proposed arrangements hold out such hopes of the removal of these long-standing abuses, that the foreign representatives are disposed to see in them a practical solution to the difficulty which the persistent exactions of the local authorities have created. This has hitherto constituted the greatest of the merchants' grievances; it has limited their trade to a small circle around the ports, and dwarfing it even there by onerous and uncertain charges.

Necessary as means of improved transport and access to the interior may be to any large development of trade, they are of secondary importance compared with impediments caused by a perfectly irresponsible power of local taxation. On the effectual removal of this source of injury, therefore, depends all improvement. The abolition of *li kin* dues on foreign trade has become the essential condition of progress; and the necessity of devising a remedy was too imperative to allow either side to hesitate in dealing with the difficulties which beset it. Even yet the undersigned finds his colleagues to be not fully assured that the measure proposed will be effective to the end, and deem some additional guarantee against failure desirable, and security for the additional losses such a result would entail on the merchants.

The measures now proposed, if faithfully carried out, seem adequate to the end. The principle is distinctly recognized that special taxes of any kind, if touching foreign goods, must be previously arranged with the foreign representatives at Pekin, and published for general information; and consequently that no extra taxation shall be levied by local officials and without imperial authority. All irresponsible and local taxation is thus put an end to. It is acknowledged that all foreign imports, opium excepted, should circulate free on paying the import and transit dues fixed by the tariff; and this privilege to extend to the goods even when transferred to Chinese hands. It is further agreed that all Chinese produce shall be allowed to get to foreign markets after paying 2½ per cent. transit duty and the tariff export dues; and also that every

kind of native produce may be traded in by foreign merchants on the same footing as natives.

To bring about these advantages to the foreigner, without injuring the Chinese revenue, it is proposed that the transit due of 2½ per cent. shall be levied on all foreign imports at the time of landing, in like manner as the import duty and by the maritime customs; and that such imports shall thereafter be exempt from all further taxation, no matter in whose hands they may be found, thus terminating all further discussion about their liability to *li kin* taxes, which at many ports have far exceeded both kinds of duties put together.

In order to secure that native dealers in native produce shall not be placed in a worse condition than foreigners, but both be placed on the same footing, it is proposed that a further deposit of 2½ per cent., in addition of the transit due of that amount, shall be lodged at the last barrier before arriving at the port, as an equivalent for the various inland taxes it would otherwise have escaped under the transit certificate obtainable only by foreigners. In the event of its being sent to a foreign port within three months, the deposit is to be refunded.

To give effect to these principles, an edict has been draughted for publication, by which all local officials will be made fully acquainted with the foreigner's rights in respect to the transit paper; and in the event of any attempt at obstruction or surcharge, it is provided that an appeal shall lie to the nearest customs under the foreign inspectorate; and an officer shall be deputed to make inquiry on the spot, and compensate the foreign merchant for any proved loss or injury.

Such is the general outline of the system now proposed for the due execution of the treaty clauses providing exemption from extra taxation under the transit certificate. Is there sufficient security for the due observance of these rules by the provincial officials of all classes? This seems to be the only question in the minds of the foreign representatives; and it is suggested that nothing is really certain but the addition of 2½ per cent. to the import duties. This will be vigorously exacted and paid, but whether the equivalent exemption from all further taxation will be obtained must be held to be more or less doubtful until further experience can prove the efficacy of the new order, seeing that in the past these same provincial authorities have shown the most persistent disregard of treaty stipulations where foreign trade was concerned, inflicting losses on the merchants by exactions, surcharges, and delays, to an amount difficult to calculate. The *yamun* has expressed its willingness in all such cases to make adequate compensation upon proof of the violation of these rights; but in the great majority of cases proof is difficult to produce, partly from the lapse of time, and partly from the imperfect knowledge of the language and the impossibility of producing documentary or other conclusive evidence. Under such circumstances it would seem reasonable that, during the first year at least, all amounts collected under the new arrangement as transit or barrier dues should be carried to a separate account by the maritime customs, and held in reserve, to meet any claims for compensation in cases of loss or prejudice sustained by failure of execution; and in lieu of depositing the amount of the extra 2½ per cent. the equivalent for charges due on native produce not going to foreign ports, a bond would for many reasons be preferable and equally secure, as it would avoid locking up the merchant's money for a liability which might never arise, and preclude all questions about relative rates of exchange on payment or reimbursement.

Some provision must be made under this head at the port of Ninchwang of an exceptional nature, where compulsory payment of the transit due cannot be enforced, seeing that there are no inland taxes on native trade in Manchuria, (as the consul there informs the undersigned;) and to exact it would consequently put the foreigner at a disadvantage with the native dealer, contrary to the principle of placing them on an equal footing.

As to increased facilities of access to points on the coast and the river Yangtsze, the *yamun* proposes to establish three landing-places, with custom-house stations for the landing and shipping of goods on the river; and to open Wanchau in place of Kungchau in Hainan. It seems desirable to add at least two more to these landing and shipping stations on the Yangtsze, one at Kwachau or elsewhere on the northern bank opposite to Chinkiang, if there be a point within the same jurisdiction, and another at Hu-kan near the mouth of the Poyang lake, to prevent much inconvenience and loss of time in dragging cargo-boats with tea 18 miles against steam, which often causes a delay of many days, whereas, if a station were opened a steamer could load there at once instead of Kin-kiang.

The opening of new ports on the coast seems to be more in the interest of the Chinese revenue than of the foreign merchants. Except for Wanchau, none of the memorials have expressed a desire to have more ports; and some of them give a strong opinion that, without advantage to trade, a large addition would be made to the expenses of the merchants, if they are called upon or driven by competition to create more establishments.

Nevertheless, a free access to the coast generally, without concessions or building of settlements, would undoubtedly be an advantage to both countries. To China it would

give an increase of revenue by the facilities custom-houses would afford by preventing smuggling in foreign goods, now carried on to a great extent by native boats at non-treaty ports; and would also tend to put down piracy, especially on the west coast. To the foreign merchant it would be convenient if the intervening ports of Wanchau, Chinchew, and Taichan were made ports of entry, where foreign vessels could land or ship cargoes; and if Pakhai, the port of Lienchau, at the head of the Gulf of Tonquin, were likewise opened in connection with the Hainan port, not only a great blow might be struck to destroy the pirates who infest those waters, but this port, being now the entrepôt of trade between the Gulf of Tonquin and Canton, might lead to the development of a large trade with Kwangsi and Yannan. All these might be mere subsidiary ports of call, with small custom-houses under the foreign inspectorate, while the placing of consular officers there might be optional, and, except at Pakhai, one or the other probably would not be deemed necessary.

The undersigned therefore proposes, in the common interest, that these additional landing places and subsidiary ports of call should be conceded as conducive to three desirable objects, viz: the extension of trade; the increase of revenue; and, in connection with both, the suppression of smuggling and piracy.

In respect to a revision of the tariff, a separate memorandum is attached giving the reasons why the present time is inopportune for a general revision. The Chinese government now seeks a revision, and proposes the equalization of duties on the bulk of the articles in the tariff to 5 per cent., but doubling those now levied on the three largest staples, tea, silk, and opium. No doubt the revenue might thereby be largely increased, or even doubled, since these articles of luxury would probably bear to have the duty doubled; but the present revenue from foreign trade, under the vigorous and honest administration of the inspector general, is large and certain in its amount, and tends to increase with the extension of trade. If the facilities to such extension be increased as now proposed, an increased revenue would be equally attained without additional taxation, and under conditions alike favorable to foreigners and natives; whereas there would be great opposition to a heavy tax on these three leading articles. Finally, if equalization of duties were alone contemplated, the treaty powers, having each arranged their own tariff in view of the exigencies of their trade, a common consent would be necessary to revise it, and great difficulties would be likely to arise in carrying out any principle of equalization.

In connection with the tariff and administration of customs, various subsidiary questions have been satisfactorily settled. The question of duty-free goods, especially dock-stores, including wood, copper, yellow-metal, and all such articles, was one of those submitted to the commission. The proposal to make the required changes under license and bonds, with a charge of only 5 per cent. on ships built in dock, will no doubt meet the object, if care be taken by the inspector general, in consultation with the merchants, to include in the duty-free list all articles that can fairly be considered solely for foreign consumption. The assurance that all restrictions and embargo on rice, sugar, &c., and especially a partial application to foreign vessels, shall be strictly prohibited, and that no monopolies, properly so called, shall henceforth be persevered in by the local authorities, will be received with satisfaction by the merchants, for they have hitherto been exposed to heavy losses from these violations of treaty.

The merchants demand some changes in the matter of drawbacks, both as to the extension of time and repayment in specie, and at some ports the opening of bonded warehouses. The *yamun* being willing to establish them wherever the interests of trade makes them desirable to the majority of the merchants, the question of drawbacks loses much of its importance. Wherever these merchants are established, care will have to be taken as to the plan adopted. Two systems exist in Europe, one of which enables merchants to place goods under bond in their own warehouses, subject only to the surveillance of the custom-house authorities; and the other requires the goods to be stored in government establishments. Certain advantages result from the first, not attainable by any other. The merchant always has his goods near at hand for inspection, and under his own care as to fire, &c., which greatly facilitates trade. Existing interests or property are not interfered with; and the government is able to initiate a system of bonding far more cheaply than by building extensive warehouses of their own. In a mart like Shanghai, where the vested interest in warehouses is large, it becomes very important which system is adopted; for, against the salaries of a few officers who inspect the godowns where the goods are stored, has to be set off the expense of purchasing or building large government stores. How far one would exceed the other can only be determined at each port by examining the local conditions.

It will be necessary, therefore, for the inspector general to consult with the consuls and chambers of commerce, and together determine on the best mode of attaining the end, compatible with present interests. Where it may not be advisable to establish bonded warehouses, the *yamun* proposes to extend the return of drawbacks from one to three years, which is considered sufficient, and to repay in specie those presented during the current quarter. But this latter time is much too short to be of practical value; not less than six months would avail, and a return in specie within the current

year would be more satisfactory, and offers no serious difficulty in variations of exchange or complication of accounts.

Any step in this direction will be promoted by the success of the measure proposed for assimilating the currency at each port to the Canton standard of 1842, and the appointment of an assayer at each port to carry out the system. Where no gold or silver coinage exists, it cannot but be a difficult work to regularize the payment of duties by fixing the value of sycee at each port, but it is worth while to try.

All drawbacks might be entered in a separate account, to be closed at the end of the year, just as a bank keeps a record of its paper. Those issued in a given year represent so many promissory notes, which the customs is bound to make good on demand, either by receiving them in payment of equivalent value for duties or in specie at the current rate of exchange. Taels and dollars may fluctuate from month to month, but if the merchant receives the same number which the document shows he once paid, it seems to be all he can equitably claim. If either side loses from the fluctuation between specie and exchange in the interval, each may well bear it in consideration of the advantages of the system; for the custom-house has had the use of the money, and the merchant at once receives specie instead of waiting indefinitely, or discounting the paper at an increased loss. There would probably be no great loss on either side during the year. At its end a balance can be struck between the amount issued and those received back for duties, or for cash, and the difference will show the amount of such notes out as a debit against the future receipts of the customs. By this or some other way confusion in the accounts can doubtless be avoided.

Among other wants of trade is a more efficient system for the protection of foreign interests in cases of custom-house confiscation and fines; and the desire of the merchants on this head has been met by the rules recently agreed upon. Another point is a better administration of justice in the mixed cases where natives and foreigners are both concerned. The proposition made by the undersigned in reference to the last, that a code of civil law, with rules of procedure based on broad principles, should be formed, by which cases of civil suit might be tried by a mixed court, has been liberally acceded to by the *yamun*, and the announcement has been received with great satisfaction. It is to be hoped that the construction of this important work may be undertaken at once, for much time must necessarily be taken to work out the details. With mixed courts, properly constituted for administering justice, guided by rules of practice, that can be accepted by the treaty powers, the way will be prepared for modifying those stipulations which grant exterritorial privileges, and this difficulty will in process of time disappear.

The undersigned regrets that the admission of foreign salt is refused, for he is persuaded that the trade might be productive of great advantage to both countries and benefit the revenue; but he will not now press it further, as the subject has already been fully discussed.

In answer to the observations of the *yamun* in its memorandum No. 2, the undersigned agrees with the ministers, that it would be to the advantage of both parties if the merchants themselves would observe the distinction made between them and the native traders, and he will not fail to enforce this necessity upon all British subjects by every means in his power. He has to observe, however, that no ship not British-owned is legally entitled to fly the British flag. While the Taipings were at Nanking, a custom grew up in those times of confusion of covering Chinese cargoes, vessels and rafts, with British colors; but it was an abuse, and has been discontinued since his arrival in China. He will take counsel as to the best means of preventing irregular trading under this flag, and the government can take steps to move the other representatives to adopt a similar course for attaining this end.

To sum up. It appears that an agreement has been reached on many points, and those questions on which important differences exist—inland navigation, residence in the interior, and working mines—are questions of degree as to the restrictions which should properly attach to the rights conceded in view of the present state of the country and other conditions. Some relaxation and modification of these may yet remove all divergence of views, and give a completeness to the labors of the commission that would be very acceptable to her Majesty's government; and judging from the opinions expressed by the other representatives, to all the treaty powers which have a common interest in this revision.

The undersigned, therefore, will rejoice much if the prince and ministers can so far modify the views expressed in the memorandum now under reply, in reference to the only three points on which further discussion is required. He will then be prepared to transmit the papers to his government for instructions as to a revision of the treaty of Tientsin in this sense.

R. A.

SEPTEMBER 8, 1868.

## K.

*Separate memorandum on revision of the tariff, accompanying note of September* 8, 1868.

The British minister, in his note communicated last November to the Foreign Office, classing under five heads the objects chiefly to be desired for the removal of the principal grievances of the merchants by the correction of abuses in the levy of taxes, in connection with the grant of greater facilities of trade and residence in the interior, did not propose any general reduction of the tariff, or even an equalization of rates to the original standard of five per cent. *ad valorem*. He contented himself with specifying some 10 or 12 articles, on which the duties pressed unequally and injuriously, without benefiting the revenue in any material degree. The *yamun* has met this proposal liberally, in consenting to the reductions suggested; but they propose that the duty be doubled on tea, and silk, and opium, with or without a general revision and equalization of the tariff rates, so as to bring all other articles on the large list to an average of five per cent.

To propose to double the duties on nearly the only great staples of export and import is to raise the whole question of the expediency of a fundamental change and readjustment of the duties, which for various reasons is more than doubtful. In the opinion of the undersigned, as in the opinions of the other foreign representatives, the present time is not favorable for so large an undertaking. The tariff attached to each treaty is regulated by the special conditions and exigencies of trade in each country; and thus it would be necessary to revise each separate tariff, if any extensive changes were made now, before they could take effect. On the other hand, although one of the Chambers of Commerce proposed a general reduction to two and a half per cent., it is stated in the majority of the memorials that the tariff, on the whole, is satisfactory, and the only modifications suggested were in the few articles already specified, and involved no general revision.

Under these circumstances, it being in the general opinion undesirable to attempt a revision of the whole of the tariffs, and as any proposition without this to double the duties on the three principal articles of the import and export trade would be generally condemned as impracticable, the question of further changes may be considered at rest for the present. But as regards the future, it may still be worthy of consideration whether, in the interests of China and foreign powers alike, great changes, both in principle and detail, might not be introduced with advantage, first, by simplification; and secondly, by a readjustment of rates. Nearly two-thirds of the whole export and import duties, taking the returns of 1866–67, are at present realized on three articles. Among the exports tea and silk furnish 3,330,000 taels [$4,657,300] out of 4,700,000 taels, [$6,573,420;] and in imports opium yields 2,000,000 taels out of 3,200,000 taels, [$4,475,580.] The remaining thousand articles in the tariff only produce about one-third, a fact that undoubtedly suggests simplification. The duty on tea is now some 10 per cent. *ad valorem*, or nearly double the original contemplated rate of five per cent., and it falls very unequally on the different kinds, inferior and superior. On the former it often amounts to 30 or even 35 per cent. It is true that silk, both raw and in piece, is only taxed about two and a half per cent., and might well bear increase; but even if doubled, the gain to the revenue would only be 300,000 taels. And the present tariff rate on opium, which next to tea yields the largest share of the whole customs revenue, is a little over seven per cent. An equalization of these rates to five per cent. would, therefore, produce a very considerable reduction of the revenue.

In the way of simplification, however, a great work might be done at no cost to the Chinese revenue. It may be shown that there are some 500 out of 600 articles enumerated among the reports on which it is not worth while to collect duties, and about 400 out of 500 articles in the imports on which duty is collected to no purpose. The result, therefore, of reducing the number of articles, according to the present tariff, to 100 each of import and export, striking out the other 400 imports and 500 exports, would be a nominal loss of only 200,000 taels annually, which would probably be more than covered by saving in the expenses of collection.

This process of simplification might be carried much further, and the imports be reduced on the tariff list to textile fabrics, metals, and opium; and the exports to 11 articles, not 20 altogether, with a loss to the revenue of 65,000 taels on imports and 380,000 taels on exports—total of 445,000 taels, or little more than five per cent. on the whole revenue, which might easily be met by raising the tariff rate on raw silk and piece goods to the original standard of five per cent., giving an addition on silk of 330,000 taels, and on piece goods of 120,000 taels—in all, 450,000 taels.

There may be objections of a practical nature to any such sweeping measure of simplification in the tariff derived from the intermixture of the native with the foreign trade, native merchants doing a large coasting business in foreign ships; and of course it would be necessary to take into account the revenue yielded by this native trade—both that portion carried on in foreign bottoms and the still larger part in junks, be-

cause if 900 articles were made free in foreign vessels, the same would have to be done for the junks, or the native trade in them would be destroyed by a differential duty, exposing them to a ruinous competition. What duties the junk trade yields can, of course, only be ascertained by Chinese authorities, but probably it is not very large. Such information would be desirable. The export duty on sugars and 17 other articles of Chinese produce, going from one Chinese port to another in foreign vessels, may be estimated at 472,000 taels; and if limited to some 20 articles, there might be a loss of about 142,500 taels.

If, on the other hand, the object were to increase the revenue with the greatest simplification, tea, silk, and opium are all articles of luxury, which might bear a considerable increase of duty, so as even to double the present revenue without probably diminishing, in any perceptible degree, the consumption, and therefore without injury to trade, save that it might somewhat check further demand and expansion. But such increase would be strongly resisted by the whole mercantile class of all nations interested in the trade with China; and probably, therefore, by their respective governments, unless it could be shown that they would obtain some compensating advantage of a very undoubted character, fully equivalent in value to what they might lose—which the Chinese government might be little disposed to grant, even for a large increase of revenue, such as inland river navigation, railroads, and telegraphs.

The revision of the tariff would seem to be a matter, therefore, that may wisely be left for further consideration, and the influence of time and progress in other directions. If, at some future period, the native and foreign customs services should be joined together as a measure of administrative simplification and economy, and the preventive service should also become effective with steamers, it might then be safe to increase the duty on opium without giving a premium to smuggling; and also to take into consideration what corresponding changes could be advantageously made by common consent and the aid of a general revision of the present tariff.

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## CHINESE LEGATION.

### *The Chinese Embassy to Mr. Seward.*

WASHINGTON, *June* 2, 1868.

The undersigned, having been commissioned by his Majesty the Emperor of China, Anson Burlingame, of the first Chinese rank, envoy extraordinary and high minister plenipotentiary, and Chih Kang and Sun Chia Ku, of the second Chinese rank, associated high envoys and ministers respectively to the United States of America, have the honor to announce their arrival in those characters. A copy of their credentials is inclosed, and they will thank the Secretary of State to cause a time to be named for them to deliver the original to the President of the United States.

The undersigned avail themselves of this occasion to offer to the Secretary of State the assurance of their most high consideration.

ANSON BURLINGAME.
CHIH KANG.
SUN CHIA KU.

Hon. WILLIAM H. SEWARD, *&c., &c., &c.*

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His Majesty the Emperor of China salutes the President of the United States!

In virtue of the commission we have with reverence received from Heaven, and as China and foreign nations are members of one family, we are cordially desirous of placing on a firm and lasting basis the relations of friendship and good understanding now existing between us and the nations at amity with China. And as a proof of our genuine desire for that object, we have specially selected an officer of worth, talents, and wisdom, Anson Burlingame, late minister at our capital for the United States of America, who is thoroughly conversant with Chinese and foreign relations, and in whom, in transacting all business in which the two empires of the United States and China have a common interest, we have full confidence as our representative and the exponent of our ideas.

We have also commissioned Chih Kang and Sun Chia Ku, high officers with the honorary rank of the second grade, to accompany Mr. Burlingame to the United States, where

Mr. Burlingame, with the two so appointed, will act as our high minister extraordinary and plenipotentiary.

We have full confidence in the loyalty, zeal, and discretion of the said three ministers, and are assured they will discharge satisfactorily the duties intrusted to them, and we earnestly request that the fullest credence and trust may be accorded to them, that thereby our relations of friendship may be permanent, and that both nations may enjoy the blessings of peace and tranquillity, a result which we are certain will be deeply gratifying.

Dated this sixth day of the twelfth moon of the sixth year of our reign, (December 31, 1867.)

TUNG CHIH.

Translated by J. M. L. BROWN,
*First Secretary of Chinese Mission.*

Translation approved.

S. WELLS WILLIAMS,
*U. S. Chargé d'Affaires, ad interim.*

ROBERT HART,
*Inspector General of Imperial Chinese Maritime Customs.*

W. A. P. MARTIN,
*Professor of Hermeneutics, and Translator of the Imperial Foreign College, Peking.*

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The Prince of Kung makes a communication:

The *yamun* has already, as the records show, respectfully copied and forwarded to the United States and other ministers the imperial decrees by which his Majesty the Emperor has specially appointed Mr. Burlingame, and with him Chih-Ta-Chên and Sun-Ta-Chên, members of the Foreign Office, his high ministers, to proceed to the treaty powers with authority to transact all business in which those countries and China have a common interest. In regard to this appointment of three ministers at the same time, the Prince of Kung begs to explain fully the reasons for this action on the part of the Chinese government, so as to anticipate any apprehensions the foreign representatives in Peking might have, that hereafter, when business has to be transacted with the several governments to which the three ministers are accredited, there is to be no distinct precedence and subordination between them. It is the usage, the prince is aware, among all the great western powers, when peaceful relations exist between them, to send diplomatic representatives, each to the other; and as relations of friendship and amity have now existed between the United States and China for some years, this country ought ere this to have sent to the United States an envoy with diplomatic function; but the taking of this step has been hitherto delayed because China has not been acquainted with the languages and customs of foreign nations. When, however, Mr. Burlingame, a minister who is just in his dealings and agreeable in intercourse, and who is thoroughly acquainted with the relations of China and foreign nations, and in whom the Chinese government on its part has always had full confidence, expressed his willingness to act in this matter for China, his Imperial Majesty, moved by a memorial on the subject, appointed him to be his high minister, to proceed to all the treaty powers, and Messrs. Brown and de Champs to be first and second secretaries respectively, to aid in performing the duties of the legation. His Majesty in this appointment charged Mr. Burlingame, assisted by his secretaries, with the exclusive control and responsibility of the business of the mission.

But if no Chinese high officers had been sent, this country would have remained as unacquainted as before with the duties of diplomatic representation. His Majesty was therefore further requested to appoint Chih-Ta-Chên and Sun-Ta-Chên high ministers to accompany Mr. Burlingame. This step not only shows the genuine feelings of friendship existing, but will also give these high officers an opportunity to acquire practice and experience in diplomatic duties.

As the Chinese government has on this occasion been enabled to avail itself of Mr. Burlingame's weight and position, and of the assistance of the secretaries of legation Messrs. Brown and de Champs, both the business of this particular mission will be performed satisfactorily, and hereafter when envoys are to be sent by China to foreign powers the taking of such action will have been much facilitated, and a mode of procedure that can be followed will have been laid down.

On the arrival of the ministers in the United States and other countries, the government there will discuss and decide with Mr. Burlingame alone, all matters that may have to be dealt with; and when Mr. Burlingame has arrived at any decision, Chih-Ta-Chên and Sun-Ta-Chên will consult with him as to the dispatches on the subject to be sent to the *yamun* of foreign affairs in Peking. In this way the entire work of the mission, being fully provided for, will proceed smoothly and satisfactorily.

Mr. Burlingame, on his part, understands the languages and peculiarities of foreign nations, and Chih-Ta-Chên and Sun-Ta-Chên, on their part, are conversant with the language and affairs of China. The arrangements adopted in this mission are only temporary, and for the occasion. The measure is an initiatory one, and will not be permanently imitated in the future.

The prince (and members of the *yamun*) would request his excellency to communicate the contents of this dispatch to the high ministers who have charge of the government of his country, for their guidance in receiving and treating with the ministers representing his Majesty the Emperor of China.

A necessary communication, addressed by the Prince of Kung, and ministers of the *yamun* of foreign affairs, to the foreign ministers in Peking, and to the secretaries of state of those treaty powers not yet having diplomatic representatives in China.

Tung-chih, sixth year, twelfth moon, sixth day, (December 31, 1867.)

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### *Mr. Seward to the Chinese Embassy.*

DEPARTMENT OF STATE,
*Washington, June* 3, 1868.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of a communication from their excellencies Anson Burlingame, of the first Chinese rank, envoy extraordinary and high minister plenipotentiary, and Chi-Kang and Sun Chia-Ku, of the second Chinese rank, associated high envoys and ministers of the Emperor of China, in which their excellencies inform the Secretary of State that they desire a time to be named for them to deliver their credentials to the President of the United States.

It is well understood by this government that, owing to the minority of the Emperor of China, the sovereign authority of the empire is now exercised by a Regency. Reserving, therefore, and waiving, though only during the Emperor's minority, the question concerning the privileges of personal audience by the head of the Chinese government, the President of the United States will cheerfully receive their excellencies the high ministers of China, on Friday, at 12 o'clock at noon, at the Executive mansion.

The undersigned avails himself of this occasion to offer to their excellencies the assurance of his most high consideration.

WILLIAM H. SEWARD.

Their Excellencies ANSON BURLINGAME,
CHIH-KANG,
SUN CHIA-KU.

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*Address of Mr. Burlingame to the President.*

Mr. PRESIDENT: If you had not already, through the Secretary of State, kindly relieved me from embarrassment, my first duty on the present occasion would be to explain to you how it is that I, who left this capital seven years ago a minister of the United States to China, have now returned here a minister from China to the United States. You will permit me, I trust, to renew, in this formal manner, the expression of my thanks for the kindness and liberality with which this change of representative character and responsibility on my part, has been allowed by the American people.

Mr. President, the imperial Chinese government having, within the last three years, accepted the laws of nations as they are allowed and practiced by the western powers, that government has further concluded, if permitted, to enter into communication through the customary diplomatic way with the United States, Belgium, Denmark, France, Great Britain, Holland, Italy, North Germany, Russia, Spain, and Sweden. This desire of the Chinese government is fully expressed in letters addressed to those powers respectively.

We are charged, at the expense of what might bear the appearance of egotism, to say that there are nine official ranks in China. By way of showing the greatest possible respect to the western powers, the letters to which I refer were committed to the care of myself, of the first rank, and to Chih-Tajên and Sun Tajên, of the second rank, myself

being invested with extraordinary and plenipotentiary functions, and all of us being accredited to you as high ministers and envoys.

We have now the honor to deliver the letter of his Imperial Majesty, which is thus addressed to the President of the United States. In doing so, we obey a charge given us by the Emperor of China to assure you of his sincere desire for your personal health, honor, and happiness, and for the welfare and prosperity of the great nation over whom, by the authority of Heaven, you have been called to preside.

*Reply of the President to Mr. Burlingame.*

YOUR EXCELLENCY: States, like individual men, have two distinct characters and fields of activity; the one domestic, the other social. If it be true, as I trust it is, that the several political communities of the earth are now more actively engaged than at any previous period in meliorating their respective constitutions and laws, it certainly is not less manifest that they are zealously engaged in meliorating and perfecting their systems of international intercourse and commerce.

The appearance here of this, the first mission from China to the western nations, is in this respect not more singular than it is suggestive. During the first 80 years of our independence, foreign nations generally evinced hesitation, caution, and reserve, not to say jealousy, in regard to advances of the United States. Of late these features have seemed to disappear. There remains scarcely one civilized and regularly constituted state with which we have not formed relations of cordial friendship. So far from seeking to impose fetters upon our commerce, as heretofore, nearly all nations now invite us to establish free trade. Our national thought—that the American continent and islands are rightfully reserved for the ultimate establishment of independent American states—is no longer anywhere contested. Vigorous and well-established European powers now freely cede to us for fair equivalents such of their colonial possessions in this hemisphere as we find desirable for strength and commerce. The inherent right of man to choose and change domicile and allegiance—a principle essential to human progress—is conceded in our recent treaties. These changes, although not less important, are less striking than the extension of our friendly intercourse with the Oriental nations. We have recently opened reciprocal and equal intercourse with Greece, with the Ottoman Porte, and with Japan. China, having accepted the laws of nations as they are explained in our own approved compilation, now avails herself, through your mission, of our friendly introduction to the Christian states of Europe and America. These events reveal the pleasing fact of a rapid growth of mutual trust and confidence among the nations, resulting from a general suspension of the policy of war and conquest, and the substitution of a fraternal and benevolent policy in its place.

Your excellencies, we have not failed to appreciate the sagacity with which the Chinese empire has responded to this change of policy by the Christian nations. We acknowledge with pleasure the cordial and enlightened adoption of that policy by the western nations, acting in concert with the United States, especially by Great Britain, France, Russia, North Germany, Italy, Denmark, Sweden, Holland, and Belgium.

I deem it not unworthy of this occasion to bear witness to the merit of the representative agents whose common labors at Peking have culminated in bringing the empire of China so early and so directly into the family circle of civilized nations, viz., Prince Kung and Wenshian, on the part of China; yourself, Mr. Burlingame, on the part of the United States; the lamented Sir Frederick Bruce, on the British part; Mr. Berthemy, on behalf of France; and Messieurs Balluzeck and Vlangally, on the part of Russia.

Reasoning from the harmony which has thus prevailed hitherto, I feel myself justified on this occasion not only in giving you a cordial reception here, but also in assuring you of a welcome equally cordial by the several other powers to which you are accredited. In conclusion, I trust that the intelligent and enlightened Chinese government and people will allow me to build upon this day's transaction an expectation that their great empire, instead of remaining, as heretofore, merely passive, will henceforth be induced to take an active part in the general progress of civilization. There are several lines of navigation between Europe and China. Citizens of the United States have already constructed a road across the Isthmus of Panama, with a line of steam service across the Pacific ocean. In two or three years more there will be added to these facilities of intercourse the Pacific railroad across our own continent, and a ship canal, constructed under French patronage, across the Isthmus of Suez. But there will yet remain, besides all these, and more important than all of them, the great work of connecting the two oceans by a ship canal to be constructed across the Isthmus of Darien. To doubt the feasibility of such a work would imply an ignorance of the science and the wealth of the age in which we live. Your important mission will enable you to contribute largely to the achievement of that great enterprise. I respectfully invite you, therefore, to commend it to the favor of the United States of Colombia, as well as to the government of China and the several European states to which you are accredited.

# JAPAN.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 70.] LEGATION OF THE UNITED STATES,
*Yedo, December* 4, 1867.

SIR: In regard to the opening of a harbor on the west coast of Japan, and to the matter stated in reference thereto in my No. 56, under date of October 22d, I have the honor to inform you that, in conjunction with all my colleagues interested therein by virtue of treaty stipulations, viz, those of France, Great Britain and Holland, I have assented to the opening of Ne-egata, together with the harbor of Ebisuminato on the island of Sado. For the reasons mentioned in my No. 69, and at the earnest request of the Japanese government, we have assented to a delay of three months in the opening of that city and harbor, being assured that by that time (April 1, 1868) all the necessary arrangements will be completed both at Ne-egata and Ebisuminato as provided in the agreement concluded November 26th, a copy of which I inclose, marked No. 1. The entire island of Sado is to be opened to foreigners for travel, with residences and storehouses at Ebisuminato, while there is to be no foreign concession or settlement at Ne-egata, but the whole city is open to them for residence and trade. A sufficient steam and lighter service is to be established between and at the two points, which we think will in a great measure remedy the want of sufficient harbor facilities at Ne-egata. A light-house is provided for at the mouth of the river, and sufficient buoys to mark the passage. Bonded warehouses are to be constructed at Ne-egata, and storehouses at Ebisuminato. I think the arrangements proposed by the Japanese government for the opening of these two places very liberal, and have no doubt they will be carried out. I inclose No. 2, copy of a notice I thought best to issue for the information of American citizens. Hoping that my action in this matter will meet the approval of the President and yourself,

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

### No. 1.

*Arrangements for the settlement of foreigners at Ne-egata and Ebisuminato.*

ARTICLE I. The Japanese government will construct at Ebisuminato, in the island of Sado, proper warehouse accommodations in accordance with the requirements of the trade, in which foreign imports may be stored rent free for the space of thirty days.

ART. II. Efficient lighters shall be constructed for the landing and shipping of merchandise at Ne-egata and Ebisuminato. Lighters shall also be constructed for the safe conveyance of merchandise between Ne-egata and Ebisuminato. A fair charge shall be made for lighterage.

ART. III. In order to facilitate communication between Ne-egata and Ebisuminato the Japanese government will provide steamers for the conveyance of passengers and merchandise, as well as for the towage of lighters between those places. A fair charge

shall be made for these services, but foreigners shall be at liberty to employ steamers and lighters of their own for these purposes.

ART. IV. In case it should be found inconvenient to land and ship merchandise on the sea-shore at Ebisuminato, the Japanese government will open a passage into the lake at the back of the town.

ART. V. The Japanese government will erect a suitable light-house near the mouth of the river at Ne-egata, and place therein a light of the first order. Marks or buoys will be placed on the bar, in order to facilitate the passage in and out of the river.

ART. VI. Bonded warehouses shall be erected at Ne-egata in the same manner as at the other ports, and a convenient landing place for the landing or shipping of goods shall be constructed.

ART. VII. Foreigners may freely rent or purchase from Japanese at Ne-egata and Ebisuminato, lodgings, residences, or godowns. They may also freely lease land for their lawful requirements at both these places. No special settlements will be constructed. At Ne-egata foreigners may lease lands within the limits formed by the sea and by the river on the north and east of the town, and on the south and west by the boundary posts of the present jurisdiction of the governor of Ne-egata. Rice fields, arable land, and other ground paying tribute to the government shall not be rented directly from the Japanese holders, without application first being made to the governor for his permission.

ART. VIII. At Ne-egata the limits within which foreigners may go shall be settled at 10 ri, more or less, in any direction from the governor's official residence, according to the positions of the rivers and other natural objects. No limits will be fixed in the island of Sado.

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No. 2.

*Official Notification.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yedo, November 27*, 1867.

Citizens of the United States are informed that, in conjunction with my colleagues, I have made arrangements with the Japanese government by which the city of Yedo, the town of Ne-egata, on the west coast of the harbor of Ebisuminato, on the island of Sado, will be open to them for trade and residence, pursuant to treaty stipulations, on the 1st day of April next.

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 74.] LEGATION OF THE UNITED STATES,
*Yedo, December* 13, 1867.

SIR: With reference to the state of affairs in this country, I have the honor to send you herewith copy translation of a document received by me on the 6th instant, from Ogasawasi Iki No Kami, (inclosure No. 1,) but which I was unable to get translated in time for the last mail by the China. It is a brief history of the principal events which have transpired in this empire in the last 2,000 years, and gives the reasons inducing the Tycoon to resign his authority. It is substantially the same thing related to me by the minister for foreign affairs in my interview with him on the 20th November.

By the kindness of Sir Henry Parkes, K. C. B., her Britannic Majesty's representative, I am enabled also to inclose (No. 2) copy translation of a document forwarded to him by the minister for foreign affairs, giving the latest information we have as yet received from Kioto.

Excitement still prevails to some extent in this city, and the entire country. The government seems to be in a lethargic state; robberies

and murders among the Japanese are occurring every day and night. Armed bands of discharged soldiers enter merchants' houses and rob the inmates, murdering them when opposition is shown, and the government seems to be unable or unwilling to prevent them.

I intend leaving Yokohama on the 21st instant, in the Shenandoah, for Osaka and Hiogo, to be present at the opening of those places. All of my colleagues now in Japan, viz, the representatives of France, Great Britain, Holland, and Prussia, have informed me of their intention of being present at the same time. I trust my action in this matter will meet with approval.

I have the honor, sir, to be your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

In consequence of the important decision, made by our Tycoon of Japan, of surrendering to the Mikado the governmental power which has descended from the ancestor of the Tycoon to this day for more than two hundred and fifty years, we want to relate the real circumstances to all the treaty powers, in order to prevent any current story or rumor from spreading and agitating people in the moment of this great change in the condition of the country.

When we want to describe thoroughly the situation of affairs at the present time, it cannot be perfectly clear unless we briefly relate the past events. Therefore we go back, and relate more than two hundred years ago, in the dark period, the descendants of Tenshin, the ancestor of the country, held the governmental power. We call them by the title of Mikado. After years, the management of state affairs failed in the hands of the Mikados, and then the governmental power devolved upon the Foogiwara family, the ministers at the court.

Though nobles at the court were charged with the civil and military service, they were too vain and weak to wear armor and hold weapons for overcoming rebellion; and when they met with any trouble in the country they entirely relied on the family of the military class, as though they were tusks and nails for them. Under these circumstances, it could not be helped that the orders of the government were issued by many. The principal ones among the family of the military class were the Menamo and Taira families. All the families of the military class in the eastern half part of Japan belonged to Menamoto, and Taira ruled those who lived in the western part.

The disturbance in the years of Hogan and Haygi was caused by the imperial princes having struggled with each other in obtaining the throne, each having engaged one of those two families to his cause. After the ruin of Menamoto's family, Taira was in a prosperous state for twenty years, and about this time the power entirely fell into the hands of the families of the military class.

On account of the tyranny of Taira, which was more severe than it had been in the time of the Foogiwara family, the Mikado overthrew Taira, having engaged as allies the descendants of Menamoto. The Mikado intrusted the management of the military affairs of the whole country to the families of the military class on account of Menamoto's having revenged him upon his forefathers' enemy and protected the court. This was about in the era of 1200 in Europe. He is the first Shiogoon, (commander in chief,) and from whom the line has descended to the Tokoogawa family, which should succeed the office of the Tycoon forever.

Such was the state for about four hundred years; and during that time, though peace and war took place by turns, persons who were charged with the duty of Shiogoon always performed the service of protecting the Mikado in overcoming rebels and preserving the people only, owing to their having had the military power and loyal hearts.

There was at times a little peace. Still the whole country was far from the state of perfect tranquillity, as the orders of the government were not issued by one body, and every person exercised a kind of independence, and there was no time of laying down arms, and the people cruelly suffered. For several hundred years no one knew the existence of the supreme master, (Mikado.)

Toashiogoo, the ancestor of our Tycoon, having possessed the great endowment of nobleness and ability, took the pain of exposing himself to battle-fields, and tranquillized the great commotion, and brought perfect peace to the country, and gave easiness to the Mikado, and erected his palace, and greatly added to his property. It is owing

to his great service and exertion that the court have lived safe and comfortable to this day. The Mikado admired his great service, and invested him with the governmental power, and set the example to his successors, which has been followed, of the Mikados not taking any share in state affairs. Consequently the power of Toashiogoo daily became more brilliant and splendid, and which no one had ever exhibited among the preceding Shaogoons. He assembled all Daimios at Yedo, and established the foundation of the government. None of the Daimios who assembled on this occasion disregarded the established regulations, and every one built house in Yedo, and all agreed to stay there for certain days every or every other year. This has become the everlasting regulation.

There had been no one to be compared to Toashiogoo in tranquillizing the national disturbance, and he was so successful that an end was put to the great commotion which had lasted for several hundred years in our Japan, and the foundation of peace and happiness for more than two hundred and fifty years was laid, and since his time none of the Daimios have planned any unlawful design. Then it is no wonder that the governmental power has been attributed to him, and has descended to his successors.

After years, the state of the world was gradually changed, and the American vessels suddenly entered in the Bay of Yedo. It then became necessary to throw off the rules of closing the country and change the long-accustomed usage. We resolved to conclude the treaty, as we not only knew that it was an unwise act to cause war without any reasonable pretension against the Europeans, whose arms and arts of war, in this time, were far superior to those of our people, who had been accustomed to peace for more than two hundred years, but we understood that there was no possibility of an island on the Eastern Ocean to exist, if she made all countries her enemies in a time when the state of the world had been so much changed that the most distant countries became as neighbors, and that there was no right to refuse to open intercourse with the nations of the world.

As this was the commencement of new affairs, which might become of very important consequences to the country in future time, and of which the people were little aware, the government should have thoroughly discussed the matter until a final decision had been arrived at, and had caused the people fully to understand the matter, so as the doubts could not have existed; but having refrained to do so now gives us a great regret.

At the time when the treaty was first made, we were incautious enough to have thought that if we kept our people from close relations with the foreigners, no misunderstanding would occur in their intercourse, and there might be a time when the obstinate argument for closing the country would be gradually effaced, and the people would naturally become accustomed to the new order of things. But our mistake has turned to our disadvantage, and has been made use of by wicked people, and has become the cause of the unfriendly feelings which have risen on both sides. The largest Daimios took advantage of this circumstance to carry out the plan of depriving the Tycoon of power by betraying every movement of the Yedo government to the court of Mikado, and deceiving it with crafty and artful words.

We cannot bear to point out the several causes by which the governmental power of our late master was weakened and confused, we being his servants; and it is useless to do so; we would not describe them here. Though it cannot be said that our government has acted with propriety, yet its design was to put down gradually those who hate and dislike foreigners and were in favor of the continued closing of the country, and also to fulfill the treaties which had been made with the foreign powers. It, however, cannot be assured whether the treaty would have been kept had it not been for the inauguration of the present Tycoon, who possessed the endowment of great intelligence and ability, and for whom it would not have been difficult to restore the work of Toashiogoo. The present Tycoon from early times had believed that it was necessary, in the good management of state affairs, that all orders of the government should be issued at one place. From the beginning of his succession he remained at Meyako for a long time; and having found so many defects in the management of the state affairs, declined for some time to accept the office.

But when the circumstances became difficult in the extreme, it became necessary for him to accept it, as he thought, the maintenance of the reputation of Japan, and to carry out everything according to the treaties, as many things had not then been done as the treaties stipulated.

He received the ministers of all the treaty powers at the castle in Osaka, and there showed his cordiality, friendly feeling, and hospitality, and has faithfully kept the covenant to carry out the treaties and fulfilled all promises. This naturally the duty of the Tycoon, but is also proof of his having not lost sight of right and justice even to the thickness of a hair, although surrounded by a hundred difficulties.

After having carried out the treaties and kept to truth, so that he had nothing to be ashamed of in matters abroad, he at once called back his attention to the interior affairs for the purpose of ascertaining whether they were properly progressing.

Hitherto the inclination of the public has been left to produce natural change as

time passed on; but now so much change has taken place in the condition of the country, the constitution which was considered excellent for more than a hundred years now has become unserviceable for the present time. In a time when the state of the world is rapidly changing, for us to do nothing but remain in our old custom is little else than to ruin our country. We often talked of establishing this new mode, but the final conclusion for such a great change was to be made only by the decision of the present Tycoon. His opinion is, as we conjecture, that to strengthen the power of the government it is necessary to cause all the orders to be issued at only one place, and that the place to which the public feeling inclines. This is the case with the government of all countries, but such has never been found in our country. Therefore, if we do not now establish that constitution we will be unable to find complete tranquillity.

Every one in public council should listen to what is necessary first to be done in our present condition, and should understand the cause which gives rise to the calamity of the country, and should meet the movement with patriotic and devoted heart. Surrendering to Shinkoo (probably means the palace of the Mikado) the power which descended from his ancestors, with a request to the Mikado to assemble the large families in the country in order to discuss its present condition, and the means of establishing the constitution of the government, and the growing happiness and independent power of the country. Such is his zeal for his country.

The foregoing is the accurate account of the present condition.

We hope that you will not trouble your mind as to the relations between Japan and the foreign powers. They shall be safely kept as before, without the slightest difficulty. Since, notwithstanding the many difficulties to preserve friendship with the foreign countries, we shall practice what is right, and it is therefore evident that our future work will be successful.

The Tycoon has the reputation of having performed all that is stipulated in the treaties and fulfilled all the promise; therefore, when the state of foreign countries shall be explained in the council held by Daimios and Shiomios, who will assemble according to the summons, no one will disagree to his first judgment.

We heartily wish that the foreign governments, regarding the friendship which has always existed, will give us their sympathy in the cause for which we unite our hearts and strength.

The reason why thus we ask the assistance of the foreign countries is that we want to see soon the effect of the effort of your country, by which ours may be brought up to a prosperous state, as to see the shadow of an object by which it is cast and to hear the echo of voice.

These we relate to you concerning the circumstances of the events which have hitherto taken place, and we will inform you further as soon as we hear from Miyako, as we already stated to you in the letter.

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[Translation.]

DECEMBER 4, 1867.

SIR: At the time when his Highness the Taikun succeeded his predecessor in the autumn of last year, he strongly declined accepting the office of Shogun; but afterwards having received pressing commands from the Mikado, he accepted and was thereafter invested with the office. Lately, however, as the result of previous representations, on the 19th November he represented to the Mikado that he wished to resign the office of Shogoon. Orders were then issued by the Mikado that, until the Daimios should come up to Kiota, on which further orders would be issued, the Taikun should attend to business as heretofore.

The above information I have received from my colleagues at Kiota, and have the honor to communicate for your information.

I have, &c.,

OGASAWASI IKI NO KAMI.

His Excellency Sir HARRY PARKES, K. C. B.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 1.] LEGATION OF THE UNITED STATES[1]

*Osaka, January* 2, 1868.

SIR: I have the honor to inform you that I left Yokohama on the 21st day of December, in the Shenandoah, for this port, reaching the anchor-

age at Hiogo on the afternoon of the 23d. We there found Rear-Admiral Bell in the Hartford, and the Iroquois and Aroostook of his squadron. The Monocacy arrived on the 25th, and the Oneida on the 28th. We also found seven English vessels of war, the English admiral arriving in the Salamis two days afterwards. Quite a number of Japanese vessels and steamers were at anchor in the harbor. Paul Frank, esq., consular agent for Hiogo, accompanied me in the Shenandoah.

The Japanese government had been diligently at work in preparing the site selected for the foreign settlement, and in the erection of the necessary bonded warehouses and custom-house, pursuant to the arrangements made in May last, a copy of which I then transmitted to you. Although these works were all in a state of forwardness, they were not completed, and my first business on landing was to urge the governor having the work in charge to renewed exertions. I secured there, for our consular agent, comfortable temporary accomodations in a temple near to the foreign settlement, and gave him an introduction to the official authorities of the port.

On the 28th of December I came up to this city, the Shenandoah anchoring off the mouth of the river, eleven miles only from her previous anchorage at Hiogo. On the morning of the 29th, I landed under a salute from the Japanese fort, which was returned by the Shenandoah, and took possession of the temple of Unlygee, which had been set apart for me as a temporary legation, being the same one I occupied when here in May last. The representative of Great Britian, in her Britannic Majesty's vessel Adventure, left Yokohama upon the same day with the Shenandoah, and, coming directly to this city, reached it on the evening of the 23d of December.

The minister of France, in the Laplace, arrived about the 30th, and those of Italy and Prussia on the 31st. The representative of Holland is now at Hiogo, but is expected here daily. The site selected for the foreign settlement at this city, under the supervision of Matsmoto Indiyu, (one of the commissioners recently visiting the United States, and who has been promoted to the office of assistant governor of Osaka,) is nearly completed, and a few days, I think, will be sufficient for getting it ready and laying out the lots preparatory to the sale.

With reference to the upset price, and the terms of sale of both these lots and those at Hiogo, no arrangements with the Japanese government have as yet been completed; but negotiations are now in progress, and I hope to be able to transmit to you the result by the mail which conveys this dispatch.

The consular agent appointed for this city, W. H. Morse, esq., has not yet arrived; he is at Hiogo, and will be here in a few days. I have engaged for him a small Japanese house adjoining the foreign settlement, which will make a very comfortable consulate. He is a young man of good character and qualifications, who has resided in Yokohama a number of years as a clerk and merchant, and now comes here for the purpose of establishing a mercantile firm.

At mid-day, on the 1st instant, the Japanese flag was saluted by the American, English, and French vessels, both at Hiogo and Osaka, such salutes being returned from the fort at Osaka, and the Japanese vessels in the harbor at Hiogo. This was the only ceremony observed upon the occasion of the opening of these places.

Immediately upon my arrival here, in conjunction with her Britannic Majesty's representative, I met Itakura Iga No Kami, the prime minister of the Tycoon, who came from Kioto for that purpose, and settled upon the arrangements and regulations necessary for the opening of this

city and the port of Hiogo. These were concluded on the last day of December, have been assented to by all my colleagues, the Japanese government, and myself, and were published on the first day of January. I have the honor to transmit copies as follows:

No. 1. Inclosure No. 1, "Regulations for the trade and residence of foreigners at Osaka."

No. 2. Inclosure No. 2, "Regulations for the establishment of a tow-boat, lighter, and passenger boat service between Hiogo and Osaka."

No. 3. I also transmit inclosure No. 3; copy of a notice issued by me on the 1st day of January, informing the citizens of the United States that the port of Hiogo and the city of Osaka were opened to them from that day.

Trusting that my action in this matter will meet with approval, I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 1.

*Regulations for the trade and residence of foreigners at Osaka.*

ARTICLE 1. As Osaka is not an open port, no foreign merchant vessel can anchor there. Until arrangements shall be made for the establishment of a custom-house at Osaka, foreigners wishing to import goods into that city must enter them at the custom-house at Hiogo, according to the regulations of trade attached to the treaties, and must pay duty there, unless duty has already been paid on the same at some other port of Japan. In the same way all goods exported from Osaka by foreigners must also be cleared from and pay duty at Hiogo, before they can be shipped on board any foreign vessel at that port.

ART. 2. Lighters, tow-boats, and passage boats, propelled by steam or sails, and belonging to foreigners, may ply between Hiogo and Osaka for the conveyance of cargo and passengers under the regulations hereto annexed, and subject to the provisions of the regulations of trade attached to the treaties.

ART. 3. Foreigners living at Osaka shall be free to go where they please within the following boundaries, namely: On the south of the Yamatogawa, from its mouth as far as Funabashimura and a line drawn from that place through Kiokojimura to Sada. The town of Sakai is outside the limits, but foreigners will be at liberty to visit it. The road between Osaka and Hiogo lies outside the limit of ten ri from Kioto. No obstruction shall be opposed to the free circulation of foreigners, either by land or water, in every part of the city of Osaka open to the Japanese public.

ART. 4. The foregoing articles may be revised at the end of six months, or earlier should it be deemed necessary.

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No. 2.

*Regulations for the establishment of a tow-boat, lighter, and passage-boat service between Hiogo and Osaka.*

1. No foreign lighters, tow-boat, or passage-boat may ply between Hiogo and Osaka unless furnished with a license by the Japanese authorities.

2. Whenever application is made for a license, the governor of Hiogo and the consul of the nation to which the boat belongs shall consider the application, and determine whether a license shall be granted. Each license must be signed by the governor and countersigned by the consul, and must contain a full description of the boat in their respective languages.

3. Each license must be canceled or renewed, as the governor and consul may determine, at the expiration of each year, and a fee of one ichibu per ton measurement, payable to the Japanese government, will be charged on the issue or renewal of each license.

4. No license shall be issued to any foreign boat or vessel drawing more than eight feet of water.

5. The Japanese government may put custom-house officers on board any licensed boat whenever they may think proper, or may appoint officers to accompany the said boats on the passage between Hiogo and Osaka

6. All goods taken on board a licensed boat at Hiogo must be accompanied by duty-paid or duty-free certificates, and all goods landed at Osaka without such certificates will be liable to seizure and confiscation.

7. A licensed boat may only take in and discharge goods at Hiogo or Osaka at the wharves indicated by the Japanese authorities, or by means of boats authorized for the purpose by the Japanese government.

8. No licensed boat may be employed in any other way than for the conveyance of goods and passengers, or the towage of licensed boats between Hiogo and Osaka, nor may they communicate with any other place, or with any native or foreign vessel, on the passage.

9. The foreign crews of licensed boats or vessels, with the exception of the masters, will not be allowed to land at Osaka.

10. Any breach of these regulations, or of any other regulations that may subsequently be made on this subject, may be punished by forfeiture of license in addition to such penalty as may be imposed by the consul of the nation to which the boat belongs, under the powers vested in him by his government for securing the observance of treaties and conventions by his countrymen.

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No. 3.

*Notification.*

Citizens of the United States are informed that, in pursuance of treaty stipulations existing between the governments of the United States and Japan, the port of Hiogo is this day opened to them as one of the ports of Japan, and that the city of Osaka is also opened to them "for the purposes of trade."

In carrying out the "arrangements" made in this city in May last, the Japanese government have prepared the site at Hiogo for the foreign settlement. They have also designated a suitable place at Osaka, within which Americans may hire houses, and, beyond the requirements of the treaty, they have set apart and prepared a site in this city within which they may lease land for building purposes. The arrangements for the sale of this land at Osaka and Hiogo are not yet completed. Notice of the time will be given.

The "regulations under which American trade is to be conducted in Japan," attached to the treaty, and such other regulations as may have since been made, are in effect at Hiogo from and after this date.

Regulations with regard to trade at Osaka, and the intercourse between that city and Hiogo, have just been concluded, and will be published.

By the terms of the treaty, Americans are permitted to go ten ri in any direction from Hiogo, except in the direction of Kioto, which city shall not be approached nearer than ten ri.

The crews of vessels resorting to Hiogo shall not cross the river Enagawa, which empties into the bay between Hiogo and Osaka.

Paul Frank, esq., has been appointed consular agent at Hiogo, and W. H. Morse, esq., consular agent at Osaka.

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 1, 1868.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 2.] LEGATION OF THE UNITED STATES,
*Osaka, January* 14, 1868.

SIR: It becomes my painful duty to give to you the account of a melancholy accident which occurred near this city on Saturday, the 11th day of January instant.

On the 8th instant, Rear-Admiral H. H. Bell, in his flag-ship, the Hart-

ford, accompanied by the Shenandoah and Iroquois, came up to the anchorage near the fort in this city. The wind was blowing very fresh, and the sea was high upon the bar at the mouth of the river which enters the bay of Osaka at the fort. On the 11th this wind had somewhat abated, although the sea was still rough, and the admiral at 9 o'clock in the morning, accompanied by Lieutenant Commander Reid, flag-officer of the squadron, left his ship in his barge with 13 sailors, with the intention of paying me a visit at the temporary legation. On reaching the bar, and in attempting to pass it, his barge broached to in the heavy sea which was running and capsized, and the admiral, Lieutenant Commander Reid, and ten of the sailors were immediately drowned. The accident was observed from all the vessels, lying at the distance of nearly or quite a mile from the bar, and they immediately lowered their boats and sent them to the rescue, but succeeded in recovering alive but three of the sailors, and those in an exhausted state. Search was immediately made for those missing, but the surf was running so high and the wind was blowing so strong that it was almost impossible for the boats to live in the gale; however, the officers and men vied with each other in the attempt to rescue their officers and mates. At half-past 4 o'clock in the afternoon the first information of the casualty was brought to me by J.Frederic Lowder, esq., her Britannic Majesty's acting vice-consul at this place, who resides about half-way (three miles) between this legation and the scene of the accident. He gave to me a letter (inclosure No. 1) which had been sent by Commodore Goldsborough on shore in charge of an officer having a boat and engaged in search for the bodies of the missing. He also informed me that about 1 o'clock of that day, (the 11th instant,) a rumor reached him that an American boat had been capsized in attempting to cross the bar at the mouth of the river. He immediately took his horse and rode down to the fort, about three miles, from which he could have a good view of the bar and the shipping; that he observed on the north side of the fort what seemed to be a boat capsized, and, taking a Japanese boat, he pulled for it, but before reaching it found the dead body of our admiral floating face downwards. This he recovered, brought to shore, and delivered it into the keeping of Lieutenant Commander Higginson, of the Hartford, who had just arrived in a boat from his ship. Then taking the letter of the commodore from Mr. Higginson, he hastened to inform me. On his way he met Mr. Morse, United States consular agent at this port, and who had arrived but the night before from Hiogo, and gave to him the sad news. Mr. Morse at once hastened to the fort, called upon the officials there, and took active measures to recover the remainder of the bodies.

I asked Mr. Lowder to give me a written statement of the facts as they were within his knowledge, and he subsequently furnished to me a letter a copy of which I inclose, No. 2.

Immediately on receiving this information, at half-past four o'clock on the afternoon of the 11th, I sent Lieutenant R. L. Meade, of the marines, and three of the marines who had been detailed by Commodore Goldsborough as a legation guard, in a boat to make effective search for, and take charge of the bodies recovered. They were accompanied by General Julius Stahel, United States consul at Kanagawa, and Mr. J. D. Carroll, an American of Yokohama, both of whom were my guests at the time. I also immediately sent for the governor of foreign affairs, who quickly answered my summons, and gave directions at my instance to the governors of Osaka to furnish men and boats, and continue a persistent search until all the bodies should be recovered. On the same

evening I was waited upon by all my colleagues of France, Great Britain, Holland, Italy, and Prussia, to sympathize with me in this sad affliction, and to tender me such assistance as was in their power. The governors of foreign affairs, on the part of the Tycoon, and in their own behalf, also visited me for the same purpose, and on the 12th instant I received a letter from Itakura Iga No Kami, prime minister, a copy translated of which I inclose, No. 3. On Sabbath morning, the 12th instant, I visited the fort and scene of disaster myself, and superintended the search; the body of Lieutenant Commander Reid was recovered, and during that day and the night following all the bodies were recovered, viz., the admiral, Lieutenant Commander Reid, and ten sailors, and they were taken on board the ships preparatory to going to Hiogo for burial. On the morning of the 13th I again went down to the fort for the purpose of going on the Iroquois to Hiogo to be present at the funeral, but the wind was so high and the waters on the bar so rough that it was not thought prudent for the boats to go off, and the boats and crews that had been sent on shore for the purpose of conveying me to the vessel were compelled to remain. I presume the funeral has taken place this morning at Hiogo, but I trust arrangements have been made to exhume the bodies of the admiral and flag-lieutenant at some future time and convey them to their country and friends. I regret that I have not the names of the sailors lost, to communicate to you, but the state of the waters on the bar, and the great difficulty of communicating with the vessels, have rendered it impossible for me to procure them. Should I be able, however, to do so before the mail leaves, I will inclose a list in this dispatch. I am sorry to inform you that the native official having charge of the village situated at the mouth of the river, and near the fort, was the only person who seemed to have no sympathy with the sufferers, and at first took no interest in the recovery of the bodies. It was his duty to have reported the accident at once to his superiors; he did not do this. Mr. Lowder informs me he was actually discourteous to him, and although five hours or more had elapsed from the capsizing of the boat to the time of his arrival at the spot, and not only had no efforts been made by this man Ichikawa Chokisi to rescue the survivors or recover the bodies, but he persistently denied any knowledge of the accident, although it had been witnessed from near his own house. I am informed this is not the first occasion on which he has evinced utter carelessness and culpable neglect in matters of moment, and I have addressed a communication to the government upon this subject, a copy of which I inclose, marked No. 4. I inclose No. 5, copy of a letter addressed by me to his excellency Sir Harry S. Parkes, thanking Mr. Lowder for his humane efforts, and No. 6, the answer received thereto. No. 7, copy of letter addressed to his excellency Itakura Iga No Kami, prime minister, in answer to his note of the 12th instant. No. 8, copy of letter also addressed to his excellency Itakura Igo No Kami, thanking the Tycoon, and the officers engaged in the search, for their assistance. No. 9, a diagram of the fort, entrance to the river and bar, and showing where the body of the admiral was recovered. This diagram was made for me by Lieutenant Meade of the marines. It is impossible for me in words to express my sorrow for this calamity. Rear-Admiral Bell had won the confidence, respect, and esteem of all who knew him, and his sudden and unexpected death is lamented here by all nationalities.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

No. 1.

*Commodore Goldsborough to Mr. Van Valkenburgh.*

UNITED STATES STEAMER SHENANDOAH,
*Off Osaka, January* 11, 1868.

DEAR GENERAL: It is with pain and sorrow I write to inform you that about 9 a. m. this morning Rear-Admiral Bell, Lieutenant Commander Reid, and 13 men in the barge belonging to the Hartford, left that ship for Osaka, intending to pay you a visit. As the boat approached the bar she was struck by a heavy sea and capsized immediately. This was seen from all the vessels, and boats were quickly dispatched to their assistance. The last seen of the admiral was either sitting or holding on to the bottom of the boat, and unless he was picked up by some passing Japanese boat, or got hold of an oar, or something else, and washed on shore, I am afraid he and Mr. Reid met a watery grave. It is now about half past 11 o'clock a. m. All the boats have returned but one, and she is inside of the bar, hunting along the beach. The return boats picked up three of the barge's crew—10 of them still missing. Will you do me the favor to ask of the authorities of Osaka assistance in hunting along the shore opposite the fort for any dead bodies that may have washed up on the beach; also, if the admiral or any of the party have been picked up, requiring assistance, to ascertain their whereabouts? Some, perhaps, if so fortunate as to have been picked up by a passing Japanese boat, may be so exhausted as not able to speak.

I will keep this open until the last moment, and send you the result of the boat now in shore, when she returns to the ship.

At the time of this sad and melancholy occurrence the barge of the Hartford was pulling, without sail, and there was a heavy sea on the bar.

I am, very truly yours, &c.,

J. R. GOLDSBOROUGH, *Commodore.*

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No. 2.

*Mr. Lowder to Mr. Van Valkenburgh.*

HER BRITANNIC MAJESTY'S VICE-CONSULATE,
*Osaka, January* 12, 1868.

DEAR SIR: It is with feelings of no common regret that I find myself compelled to take pen and paper to record the few circumstances that have come under my personal knowledge in connection with the sad fate of Admiral Bell, of the United States navy. But as these form a link in the melancholy story of his death, I cannot but think that their perusal may afford some slight satisfaction to those who live to deplore his loss.

At about 1 o'clock yesterday a rumor reached me that an American boat had been capsized in attempting to cross the bar at the mouth of the river, which, as you are aware, is about three miles from my residence. The wind had been blowing hard all that day and the one previous, and although the rumor was extremely vague, I at once repaired to the scene of the reported disaster in order to ascertain for myself the truth of the matter, and if haply I might have it in my power to render any assistance. On nearing the fort, I perceived on the extreme left, or north side, what appeared to me to be the keel of a boat, lying, I should judge, about 200 yards from the shore. My worst fears were aroused at this sight, and after making inquiries from the people of the village without eliciting any information whatever, I resolved to take a boat and make my way up to the object which had excited my apprehensions. About half-way between the fort and this object I saw a body lying in the water with its face downwards. With the assistance of two gentlemen who accompanied me it was raised into the boat, and then for the first time I discovered who it was. Words fail me to describe the sensations which for the moment overpowered me when I recognized the calm features of the poor admiral, looking in death as placid and serene as was ever their wont in life. We laid him gently in the bottom of the boat, and reverently covered his remains, while we pulled back to the landing steps. Here I met Lieutenant Higginson, in whose charge, after making the necessary arrangements for securing the best room in the village, I left the corpse, and rode back to bring you the sad intelligence.

I will only add to these few details that I was personally acquainted with the deceased; and when I say that there are few men for whom I have so great respect and esteem, either in private or in public character, I feel that I only give feeble expression to the feelings which were entertained towards him by every individual who enjoyed the honor of his acquaintance; and I shall ever have a sentiment of pride and satisfac-

tion in the thought that circumstances should have made me instrumental in doing even this little towards the discovery and rescue of his remains.

Believe me, dear sir, most sincerely yours,

JOHN FREDERIC LOWDER.

His Excellency Gen. VAN VALKENBURGH,
*United States Minister, Japan.*

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No. 3.

[Translation.]

*Itakura Iga No Kami to Mr. Van Valkenburgh.*

JANUARY 12, 1868.

I have the honor to communicate the following to your excellency: The Tycoon was exceedingly grieved on learning that an accident had happened to one of the boats of your country yesterday, (the 11th day of January, 1868,) on the coast of Osaka, and that the admiral, one officer, and several men were drowned, and sympathizes with you most sincerely. My regret and sorrow are beyond expression at this sad event.

I have been instructed by the Tycoon to communicate the above to you, and regret that, owing to a great pressure of business, I am unable to call upon you in person.

With respect and consideration,

ITAKURA IGA NO KAMI.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States of America.*

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*Mr. Van Valkenburgh to Itakura Iga No Kami.*

No. 12.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 14, 1868.

SIR: While most of the officers of your government, from the Tycoon down, have tendered your sympathies and proffers of assistance to me and my countrymen in the hour of our trouble, and have been prompt, energetic, and successful in recovering the bodies of our lost friends, I regret to learn that *one* alone has not thus been actuated by humane feelings. I refer to Ichikawa Chokishi, the official in charge of the little village at the fort and near the entrance of the river. I am informed by J. Frederick Lowder, esq., her Britannic Majesty's acting vice-consul at Osaka, that upon his visiting him and asking for information and assistance on the afternoon of the sad accident, he was treated with marked discourtesy; that his answers were abrupt and uncivil, and that no information or assistance could be procured from him. I am sorry that this should have occurred, and I am sure, when the fact is brought to the knowledge of your excellency, your disapprobation of his conduct will be marked by his dismissal, and the appointment to his position of a more energetic, civil, and humane person.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

His Excellency ITAKURA IGA NO KAMI,
*&c., &c., &c., Osaka.*

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*Mr. Van Valkenburgh to Sir Harry S. Parkes.*

No. 10.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 14, 1868.

SIR: I desire, through you, to express my thanks to J. Frederick Lowder, esq., her Britannic Majesty's acting vice-consul at Osaka, for the prompt and energetic measures adopted by him on the occasion of the recent sad accident, by which he was enabled to recover the body of Rear-Admiral H. H. Bell, and also in furnishing to me the first information I received of the misfortune.

I shall take pleasure in transmitting to my government an account of his humane exertions.

I have the honor to be, sir, your most obedient, humble servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

His Excellency Sir HARRY S. PARKES, K. C. B.,
*&c., &c., &c., Osaka.*

*Mr. Parkes to Mr. Van Valkenburgh.*

OSAKA, *January* 14, 1868.

SIR: It will afford me much pleasure to communicate to Mr. Lowder your dispatch of this date, in which you are so good as to express your appreciation of his conduct in recovering the body of the late Rear-Admiral Bell, of the United States navy. Such sad services will doubtless at all times be willingly rendered by the officers of our respective nations without distinction as to the class or country to whom the unfortunate sufferers may belong; but in this instance the high esteem in which Rear-Admiral Bell was held by all those who had the honor and pleasure of his acquanitance will add to the satisfaction which both Mr. Lowder and myself will entertain on finding that the former should have had it in his power to render you some assistance on this melancholy occasion.

I have the honor to be, sir, your most obedient, humble servant,

HARRY S. PARKES.

General VAN VALKENBURGH,
*Minister of the United States in Japan.*

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No. 7.

*Mr. Van Valkenburgh to Itakura Iga No Kami.*

No. 9.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 13, 1868.

SIR: I have the honor to acknowledge the receipt of your excellency's letter under date of the 12th instant, tendering to me the sincere sympathy of the Tycoon, as well as that of yourself, upon the occasion of the recent sad accident, and I ask your excellency to convey to the Tycoon, and to receive for yourself, my thanks for the kind and considerate words you have written.

A copy of your excellency's letter shall be transmitted to my government.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

His Excellency ITAKURA IGA NO KAMI,
*&c., &c., &c., Osaka.*

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No. 8.

*Mr. Van Valkenburgh to Itakura Iga No Kami.*

No. 11.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 14, 1868.

SIR: On the occasion of the recent sad accident occurring near the fort in this city, by which Rear-Admiral H. H. Bell, Flag Lieutenant Reid, and ten sailors were drowned, I called upon your government for assistance in recovering the bodies from the water.

Prompt and efficient aid was at once rendered, and diligent and persistent efforts were continued upon the part of your officers and men charged with that duty, until the whole number of bodies were recovered and delivered to their shipmates.

This assistance I understand was given by direct order of the Tycoon, and I take this opportunity to return to him, in the name of the government I represent, its thanks for his kind sympathy and active efforts on this sorrowful occasion, and I assured him that the President will consider it another proof of the desire of the Tycoon to strengthen the friendly relations now existing between the two countries.

I also desire to tender, through your excellency, to all those officers and men who have been engaged in the search, and who have been so attentive and kind, my most sincere personal thanks.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

His Excellency ITAKURA IGA NO KAMI,
*&c., &c., &c., Osaka.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 3.] LEGATION OF THE UNITED STATES,
*Osaka, January* 16, 1868.

SIR: It is very difficult to determine precisely the state of affairs now existing in this country. Whether there is any Tycoon having the authority heretofore professed by him, or whether the supreme power now rests exclusively with the Mikado, and is exercised by a council of Daimios appointed by him, is the question which troubles the representatives of all the treaty powers.

All the information we have upon this important question comes through the retainers and officials of the Tycoon, no communication whatever having been made to us from Kioto or from any other place. The officers whom we see, and through whom we conduct our negotiations, are the same who have heretofore conducted all business transactions, and they move on in the same orderly manner, and apparently with the same assurance as before. I received only last night, from the prime minister Itakura Iga No Kami, notice that Matsduira Buzen No Kami had just been appointed assistant Gorogio, and that another person had that day been promoted to the office of governor of foreign affairs, and this by order of the Tycoon.

Notwithstanding all this, the Tycoon himself informs us, in his reply to the address of the diplomatic body, and to which I shall again refer, that he "resigned the governing power, which he had inherited from his ancestors, upon the mutual understanding that he should assemble *all* the nobles of the empire to discuss the question disinterestedly, and, adopting the opinion of the majority, decide upon the reformation of the national constitution."

The Daimios were summoned to Kioto; Satsuma, Tosa, Gashu, and some others arrived, bringing with them large numbers of troops. Among the Daimios retainers were some fifteen hundred armed men, owing service to Chosin, all of the above-named Daimios being in opposition to the Tycoon. Their retainers outnumbered at the time the friends of the Tycoon assembled at Kioto. On the third instant they took possession of the nine gates of the Mikado's castle, turned out the regent and the princes, and took the entire charge and control of the Mikado. The Tycoon was at that time in his own castle, about one mile from that occupied by the Mikado; he was at once surrounded by his friends and retainers, and war, for a time, was imminent. The Tycoon says that these Daimios coerced the Mikado into issuing a decree accepting his resignation, and abolishing the office, without waiting for the assembling of the general council which had been ordered.

In fact, these opponents of the Tycoon, arriving in advance of a large majority of the Daimios summoned, bringing with them bodies of troops numbering in all some twenty thousand, overawed the Tycoon and his few friends at Kioto, and took forcible possession of the Mikado and the government.

On the sixth instant the Tycoon left Kioto, accompanied by some of his friends, about seven o'clock in the evening, and reached his castle in this city about four o'clock on the afternoon of the seventh.

On the eighth instant the representatives of France and Great Britain together had an audience with him, the result of which I am, by the kindness of Sir Harry Parkes, enabled to give to you in inclosure No. 1.

The Tycoon signified his desire to see the representatives of the treaty powers, and upon consultation with my colleagues of France, Great

Britain, Holland, Italy, and Prussia, it was determined unanimously to call upon him in a body, present him with an address, and thus learn if possible his present position and future prospects. On the afternoon of the tenth instant we made him such a visit, and Mr. Roche, the French minister, on behalf of the diplomatic body, delivered to him such address, a copy of which I inclose, marked No. 2.

His reply thereto was read by him in person, and then a copy furnished to each representative. I transmit a translation of it, marked inclosure No. 3. I have received, but not officially, a document purporting to be a proclamation issued by the Mikado at Kioto, establishing a form of government, and appointing Satsuma, Tosa, Etchizen, Aki, and Owari, five of the principal Daimios, a council, assisted by a large number of lesser officials, to carry on the government. I have no doubt of the authenticity of the paper, and I inclose a copy translation, marked No. 4. Attached to this proclamation there is one which seems to have been issued by the Tycoon's authority, announcing the fact that he had been dismissed from the office of Shogoon.

From this new government (if there be such) we have as yet received no communication, and, if rumor speaks true, already has dissension been sown in their ranks and difficulties arisen among them. The Tycoon himself, and his friends, among whom I am told are many of the most influential and powerful of the Daimios, seem indisposed to yield to this new arrangement, but are willing, or express themselves so, to abide the decision of a general council of Daimios, after full and free discussion.

I doubt whether this will be granted, and my fears now are that a civil war will be the result, the Tycoon and his adherents upon the one side, arrayed against Satsuma and his allies upon the other. The Tycoon, as head of the Tokugawa family, is probably the most powerful and wealthy person in Japan. In his own right he owns large provinces and receives vast revenues. *All* of the open ports in Japan, including Yedo, Osaka, and Ne-egato, are in his provinces. He has been very liberal in his negotiations with the foreign representatives, is desirous of faithfully observing the treaties, and of strengthening the friendly relations with other powers, especially the United States, and in my opinion is the most progressive and liberal in his ideas of any Japanese official.

I inclose herewith No. 5, copy translation of a protest sent to the Mikado by the retainers of ten Daimios, on the sixth instant, but which did not reach me officially.

I also inclose No. 6, the substance of a very long communication addressed to the Mikado by Maki No Suruga No Kami, a small Daimio. I cannot give you an exact translation, as my interpreter (Sikey Shinpatchi) has been at work on it for two days and finds it very hard to properly translate. As it is not an official document, and was not officially received, this copy I trust will be satisfactory.

It is hardly necessary for me to say that in case there should be a collision, I shall endeavor to preserve a strict neutrality, protecting, as far possible, American interests.

I have the honor to be, sir, your obedient and humble servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

No. 1.

*Memorandum of interview with the Taikun, January 8, 1868.*

Present, her Britannic Majesty's minister and the minister of the Emperor of the French.

The Taikun spoke as follows:

I became convinced, last autumn, that the country would be no longer successfully governed while the power was divided between the Mikado and myself. The country had two centers, from which orders of an opposite nature proceeded. Thus, in the matter of the opening of Hiogo and Osaka, which I quote as an example of this conflict of authority, I was myself convinced that the stipulations of the treaties must be observed, but the assent of the Mikado to my representations on this subject was given reluctantly. I therefore, for the good of my country, informed the Mikado that I resigned the governing power, on the understanding that an assembly of Daimios was convened for the purpose of deciding in what manner, and by whom, the government, in future, should be carried on. In acting thus, I sunk my own interests and power, handed down to me by my ancestors, in the more important interests of the country. The Mikado accepted my resignation on the understanding which I named, but desired me to continue the direction of the state as heretofore until the voice of the nation should be taken.

The Daimios had been summoned to appear at Kioto, and some had already arrived, when at mid-day, on the 3d of January, Satsuma, Tosa, Geishin, Owari, and Echizen took possession of the gates of the palace, dismissed the sessho, who had been appointed by the late Mikado to act as the guardian and adviser of the present one during his minority, placed an instrument of their own in his stead, forbid the kuges, who had hitherto enjoyed the confidence of the Mikado, to approach the palace, and placed about him other kuges whose opinions were identical with those of the five Daimios. Having met together in a mock assembly, they then called on me to resign my office of shogun, my rank of maidaijin, and land representing 2,000,000 of kokus of revenue.* As these belonged to me of my own right, and as it was contrary to the agreement to forestall, in this way, the decision of the assembly, I withdrew my forces to Osaka.

Having told you what has passed, I now desire to have your opinion and advice.

M. ROCHES. When we heard, last autumn, of the step taken by his Majesty the Taikun, we were all of us moved with admiration of the patriotism which had dictated it. We, moreover, were convinced of the wisdom shown by his Majesty in appealing, on this momentous question, to the voice of the nation, and we trust that, notwithstanding what has since occurred, he will still find means to attain his object.

Sir HARRY PARKES. When I learned verbally from the Taikun's ministers at Yedo, as well as from the documents which they placed in my hands, that the Taikun had handed back to the Mikado the powers which had been intrusted to his ancestors, and had called a national council to deliberate as to the constitution of the new government, I considered it a wise step, and as such I reported it to my government. I am much obliged to the Taikun for the above explanation of the state of affairs, which, while it affects Japan, must also affect, to some extent, foreign nations, and I shall be therefore still further obliged to the Taikun if he will give me some information as to his future intentions.

In reply to this and subsequent questions from the two ministers, the Taikun gave the following information:

It has hitherto been Satsuma who has been the leading spirit in the councils of the five Daimios I have above named, but there are already signs of their being dissatisfied with the extreme lengths to which he is going. My policy, from the commencement, has been to determine this question of the future form of government in a peaceful manner, and it is in pursuance of the same object that, instead of opposing force by force, I have retired from the scene of dispute.

It would, moreover, have been unseemly for me to have been the first to draw the sword so near the palace of the Mikado, against whom I should have appeared to be arrayed, though I well know that such would not really have been the case. The Mikado is but a child, who is being guided by those into whose hands he has fallen. With respect to the question asked by the British minister as to the meaning of the Mikado's decree, ordering me to confer with two or three Daimios at Kioto, on any foreign question of importance which might arise before the assembly of the Daimios had been held, which decree was communicated to the British minister by the Gorojin of Yedo, I inquired from the Mikado who were the Daimios referred to. The Mikado replied that he did not know. I put my question and received this answer in writing. It was then evident to me that the decree was not his own, and I accordingly did not feel bound to obey it. As to the guard at the nine gates of the palace at Kioto, and the

*Or above £2,000,000 in value.

reason why I allowed it to be changed, the case was as follows: Although Alcazu was intrusted with the general command of the guard, some of the gates were held by the men of Satsuma and other Daimios. Through these entered the kuges who had been banished from the court, and who, having thus obtained access to the Mikado, persuaded him to issue a decree for the guardianship of the nine gates to be taken from Aidzu and intrusted to Satsuma. With that decree it was necessary to comply, and my own men, as well as those of Aidzu, were withdrawn. When I was ordered by the Mikado to resume the direction of affairs pending the decision of the assembly, it was the civil as well as the military government that I continued to hold. As to who is the sovereign of Japan, it is a question on whom no one in Japan can entertain a doubt. The Mikado is the sovereign. My object from the first has been to take the will of the nation as to the future government. If the nation should decide that I ought to resign my powers, I am prepared to resign them for the good of my country. It was to avoid bloodshed that, when I saw the five Daimios had broken faith, I left Kioto, and withdrew to this place. Here it is my intention to await the course of events. My object and my intentions remain unaltered. I am still prepared to abide by the decision of an assembly of Daimios. This assembly, however, must be a genuine one, and must not consist of Satsuma and a few of his adherents only. Whether these Daimios will attack me or not, I cannot say. There are signs of discord in their councils. There is also dissatisfaction among other Daimios, who had come up to Kioto, as they thought, to attend a general assembly of Daimios. Some of these have now left again, while others, who were on their way, have turned back on learning what has taken place. What or where is the government of the country at this moment I cannot say. Nominally it would seem to reside with the young Mikado, but for my own part I know that he is at the mercy of a faction, and that though decrees may be issued in his name, they do not really emanate from him; I furnish you with a copy of one that is said to have been issued by him, but which I do not recognize as official. It is my intention to address a protest to the Mikado, advising him that such a government is in fact no government. I do not, however, pledge myself to be bound by the answer I may receive from the Mikado.

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No. 2.

*Address of the diplomatic body to the Tycoon, at an audience at Osaka, on the 10th January,* 1868.

At a moment when the government of Japan is undergoing important modifications, the representatives of the foreign powers who signed the treaties feel themselves called on to give expression to their feelings of high esteem and gratitude towards the Uyesama, who, by his energy and loyalty, has succeeded in securing the faithful execution of the said treaties. Thoroughly determined to stand aloof from the existing dissensions relative to the form of government, the representatives here present express but one hope—it is that a national and stable government may be formed which will afford to them sufficient guarantees for the loyal execution of international engagements.

Independently of their desires, they possess a right—it is that of being informed officially, and without delay, of the government with whom they have to deal, in maintaining the interests which they have the honor to represent in Japan.

They trust that the Uyesama will take into serious consideration both their wishes and their right, and that he will be pleased to inform them, with the least possible delay, of the government to whom they are in future to address themselves.

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No. 3.

*Reply of Uyesama to the address of the diplomatic body, at an audience, on January* 10, 1868.

My ancestor Tyeyasuko established the Japanese form of government, with all its fundamental principles and all its details; and for more than two hundred years, from the Tenshi above down to the lowest of the nation, there is no one who has not honored his virtues and enjoyed the fruits of his beneficence.

But the world has changed. Since the conclusion of treaties with foreign powers, it has been impossible to avoid seeing some imperfections in laws considered true and beautiful. From the very first moment when I succeeded my predecessor I saw this, and designed, in consultation with Kioto, to effect a reformation in these laws. I have no other motive but the following: With an honest love for my country and the people I resigned the governing power which I had inherited from my ancestors, and with the

mutual understanding that I should assemble all the nobles of the empire to discuss the question disinterestedly, and, adopting the opinion of the majority, decide upon the reformation of the national constitution, I left the matter in the hands of the imperial court.

In order that this great work may be carried out, his Highness the regent, who was appointed by the will of the late Emperor to be a protector and adviser to the young sovereign, and several of the princes of the blood and of the nobles of the court, accepted my resignation of the governing power; but an imperial order was given to me at the same time to continue to exercise that power in all things in the same way, as heretofore, until a decision should be arrived at by a general council of Daimios. I awaited that meeting, and was fully resolved to take a part in it myself. Unexpectedly, however, one morning several Daimios made their way into the palace by force of arms, drove out his Highness the regent, appointed by the late Mikado, together with the princes of the blood and the nobles of the court, brought in their stead nobles who had been banished from his presence by the late Emperor, altered the original imperial command, and, without waiting for the general council, abolished the office of the Shogoon.

My hatamotos and fudai daimios were greatly incensed, and urged on me, night and day, that no other course could be pursued but that of taking military measures against this violent crime of breaking the laws of Japan and contravening the wishes of the people. But, as my original object in laying down the governing power was to insure unity among all classes of the people, such excess of zeal was contrary to the course I had resolved on. However much I might be in the right, I certainly would not be the cause of a national convulsion. In order to avoid such an unfortunate disturbance I came down to Osaka.

The reason for my doing this is not what superficial observers might suppose. Looking at their criminal act from the point of view of a love for my country and its people, I cannot with indifference see them possessed of the person of the young sovereign, giving loose to their own selfish desires under the name of the Emperor's wishes, and distressing the people.

For the sake of my nation I must explain this. I will endeavor to convince those who differ from me, if such there be, ask for the opinion of the majority of a general council, and pray earnestly for the prosperous government of my country. It is because I follow my ancestor Tyeyasu in his love for the people, and desire to carry out the instructions left by the late Emperor, that I am animated by the earnest wish to unite my powers with those of the whole nation, to proceed according to the most perfect reason and justice to carry out the work I have proposed to myself and obtain the opinion of a general council.

It is not necessary for the powers with whom treaties of peace have been concluded to concern themselves about our internal national affairs. What is important is that they hinder not the course of just principles.

Since I have observed faithfully all the provisions of the treaties, I hope to deserve your approbation still more by protecting the interests of all the powers. And you will comprehend that, until the form of the government shall be settled by a general discussion by the whole country to observe the treaties, to carry out all the stipulations made with foreign powers, and to conduct foreign relations generally, is my office.

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No. 4.

[Translation.]

*Draft of a proclamation of the court of Kioto.*

That Tokugawa Naifu shall give up the supreme power, and that the Shiogoonate shall be abolished, are two points that have been finally accepted by the Emperor. Since the year Uski, (15 years ago,) we have been in a worse position than ever existed before. The late Mikado's heart was afflicted for many a year—this every one knows; therefore has the Mikado now made up his mind to return to the old form of government as exercised by the Mikado, (à l'osei au lieu du bakfu,) to restore the national power, and to settle the elements of the new constitution.

Therefore the Mikado shall, from this moment, abolish the office of seikan (seisio chambaku) and the bakfu (government of the shogoon,) and shall establish temporarily the three departments, viz, the sosei, the titei, and the sanjo, and the whole business shall be conducted by them. According to the constitution of zyz-moo, (660 a-X,) the sinsing, (nobility,) buhen, (military men,) tosho, (kuge,) and the dsigne, (low officers,) may offer their advice without regard to their rank.

As it is also the Mikado's intention to share good and evil with his people, every one should put aside his former bad customs, and serve the nation with a true heart.

1. The members of both Naizan, (the secret council,) Tchokumoa, (the second council,) the Kokudgi Gojogakari, (the department of interior affairs,) the Gizo, the Buke

Tenso, the Shogoshaku, (Prince of Aidzen, to whom the defense of Kioto was confided,) and the Siosidai, (Prince of Kumava, Governor of Kioto,) are abolished.

Those appointed are as follows, viz:

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|---|---|---|
| Sosei: | Arisugawara Setzu No Mia. | |
| Titei: | Ninguadsi No Mia, | Kuge. |
| | Tamasina No Mia, | |
| | Nakayama Dainagon, (Fukio,) | |
| | Nakanomikado Tsunagon, | |
| | Owari Dainagon, | Princes of. |
| | Etsisen Saisio, | |
| | Aki Siosio, | |
| | Tosa Siosio, | |
| | Satsuma Saisio, | |
| Tanjo: | Ohara Saisio, | Kuge. |
| | Madenokodsi Nobeng, | |
| | Nagatamiro Sammi, | Kuge. |
| | Twakwia Sosio, (Fukio,) | |
| | Hasimoto Sosio, | |

Three caros of each of the before-mentioned princes.

A Dadjogwan, (Prince minister, higher in rank than the Quambaku, a dignity which not only a member of the five Quambaku families, but any one, may obtain,) shall be re-established afterwards. May every one remember this, that he can also rise to this post.

2. The ceremonies of the Mikado's court shall be changed afterwards; but the Quambaku families (the five Seke) and the families of Daidsin (families from which these dignitaries were taken) shall be abolished now.

3. To change, for the better, the ancient evil customs, permission to speak freely must be given to every one; therefore, any one, without distinction of rank, who has an opinion, may offer his advice to the Mikado freely, and as it is the most important duty of the Mikado to find out intelligent persons for the government service, every one finding a proper person will speedily offer his information.

4. For many years past the price of everything has been so high that we could do nothing. The rich became richer, and the poor poorer, and the reason thereof was that the manner of governing was not the right one. The greatest treasure of a Sovereign is his subjects, and we are now in a position to eradicate the evil customs of many hundred years; every one, therefore, knowing a plan to prevent this before-mentioned misfortune, may submit it freely to the Mikado.

5. When Katsumia Onkato married into the Onanto family some years ago, and when this marriage was allowed by the late Mikado's will, it was because he hoped to drive away the foreigners; but afterwards the Shogoon died, and this was nothing but a false pretense of the Yedo officials, from which no result came therefore; it is hoped that she will return as soon as possible, and in a few days some Kuge shall be sent to receive her back. This must be remembered.

This is settled and proclaimed in one paper, that the Prince of Chosin may return again to Kioto. He is restored to his former rank and dignity. This has been brought about by Satsuma, Tosa, and Aki.

Yesterday, on the 9th day, (3d January,) the subjects of Satsuma, Aki, and Owari, in armor, surrounded and occupied the palace of the Mikado; to the following Kuge and to the subjects of the Uye Sama entrance into the palace is forbidden, viz:

Setsio Sakino Quambaku; Sadaidsin; Udaidsin; the former Quambaku Sadaidsin; the former Quambaku Udaidsin; the former Sadaidsin; the former Udaidsin; the former Ichidsio daidsin; Naidaidsin; Hini dainagon; Askai dainagon; Tanagiwara dainagon; Hannoro dainagon; Sandio Tsunagon; Nomiya Tsunagon; Koesi Saisio; Toyoka Okurakio; Fusihara Sammi; Uva Tsudi Shudio.

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PROCLAMATION OF THE TYCOON.

*To the Ohometzkes and the Ometzkes:*

The imperial order was given on the 10th day of this month, (4th January,) to communicate to the Daimios, the Hatamotos, and the Gosanke, the following decree:

*Copy of the imperial order.*

11TH DAY OF 12TH MONTH.

It has pleased the Mikado to dismiss the present Shogoon, at his request, from the office of Shogoon.

*Copy of a proclamation of a Shakora Iga No Kami to all officials, high and low.*

12TH MONTH.

As the title of Shogoon has been abolished, all subjects must use the title of Uyesama.
As the title of Midaisama has ceased to exist, the title of Goventsiasama must be employed instead.

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No. 5.

[Translation.]

*Protest of Daimios, sent to Mikado.*

The imperial design of a great change which was lately determined upon, with the view of promoting peace and harmony in our country, by establishing a policy that would avoid the many evils that have hitherto existed, (ei,) that of having many heads instead of one, and which was to have been discussed at a general meeting of the Daimios, and while all classes of the people were expecting this consultation with anxiety, the armies of the summoned princes suddenly appeared at the court of the Mikado, on the 3d of January, 1868, (the last 9th day,) warlike equipped.

Consequently great surprise and excitement have taken place.

We are informed that Nijo Deuka, who held office during the reign of the late Mikado, as well as up to the present time, and several other nobles, have been dismissed; and we are also informed that the Shogoon will likewise be deprived of his office, title, and estate. We are not aware of the reason of the Tycoon's being so dealt with, but we apprehend the result of the contemplated reform in the government if the Mikado is influenced by these dissenters, more especially in this time when all classes of the people praise him for having surrendered to the Mikado the great power which has descended to him from his ancestors, besides having accused himself of incompetency, and also in his using every effort to support the imperial cause.

We sincerely desire that orders will be given immediately to prevent warlike people from frequenting the imperial residence, so as to calm as quick as possible the general excitement.

We also earnestly desire that the public affairs will be managed in such a manner as will be decided only by a majority at a general assembly, and that the proposed reform will be carried into effect.

As we look upon the present condition of our country as very critical, we have taken this liberty, which we feel our duty, and which we trust you will not find amiss.

With respect and esteem,

HATCHI SOOKA SHINANO,
*Retainer of Matsdaira Awa No Kami.*
HISANO SHIROBEI,
*Retainer of Matsdaira Mino No Kami.*
MIZOGOOTCHI KOWOON,
*Retainer of Hosokawa Ettiwoo No Kami.*
YAMAWOORA GENGDAYOO,
*Retainer of Arima Nakats Kasa Tayoo.*
NISHIMOORA KIUJIRO,
*Retainer of Namboo Mino No Kami.*
SAKAI HABEI,
*Retainer of Matsdaira Higen No Kami.*
TANABE ITCHIZAEMON,
*Retainer of Nuva Sakudayoo.*
TOBA GENZAEMON,
*Retainer of So Tsukuma No Kami.*
TSROODA HABEI,
*Retainer of Mizogootchi Seino Shin.*
TOTOKI SETTS,
*Retainer of Tatchi-Cana Hida No Kami.*

JANUARY 6, 1868, *(12th day of the 12th month.)*

No. 6.

[Translation.]

*Protest of Daimio Maki No Suruga No Kami to the Mikado.*

I take the liberty to state as follows: I feel much honored in having been summoned to attend the imperial court, knowing that I am but a vassal. Yet I fear by acting I may compromise any good feeling that may have been held towards me by the Tokugawa family, by innovating an old custom. Yet I think it would be disloyal on my part to remain silent on this important question. It appears that the Tycoon reported to the Mikado his intention to resign his official power. This intention was too soon accepted by the Mikado, and every one regrets that an important matter should have been settled without due consideration, and I feel confident that such will be the cause of national troubles. Since the governmental power has passed into the hands of the Shogoon family, the restoration of that power by the Mikado has often attempted, but in vain, owing to the only nominal power of the imperial court. Such was the case formerly, and is clearly understood by everybody. The governmental power was given by the Mikado to the Tokugawa line, on account of one of their members having successfully quieted national disturbances which had lasted for several hundred years, thereby relieving the nation from much cruel suffering. We are consequently indebted to Almighty God and him for the peace we have enjoyed up to the present time. The code by which that member of the Shogoon family was guided was wise and good, and is beyond comparison. Since then, however, many changes have taken place, and those laws are now found inadequate to the present time, more especially since Japan has had intercourse with foreign nations. The opinion of the Kuges and Shogoon family on that subject widely differed. Of this the cunning took advantage, and committed many outrages under the pretext of supporting the imperial cause. In this respect, however, the Daimios greatly differed in opinion, but now all are quite satisfied that foreign intercourse has proved beneficial to the country at large. Most of the Daimios, who originally disliked what they called this "intrusion" on the part of foreign nations, are now greatly in favor of them, as well as the late Mikado, who, in proof of this friendly feeling, ratified the treaties.

The policy of the present Mikado, however, widely differs from that of his predecessor on this point, he being influenced by those who only affect assistance to the imperial cause and the advancement of the country, but who, in fact, are working for selfish ends, and who will be sure to prove disloyal when their real aid and influence is called for.

I feel confident that there is but one way to re-establish that peace which our country much needs, and that is, by reinstating to the Tokugawa family its former authority, and I sincerely trust his Imperial Majesty will be pleased to do so at once, as delay may prove fatal.

I feel it has been very forward on my part to so distinctly state my feelings on this important question, but I would rather forfeit all claims to rank, and even life, than to withhold my opinion on a subject that affects so directly the welfare of my country.

With respect and esteem,

MAKI NO SURUGA NO KAMI.

12TH MONTH OF 3D YEAR OF KEWO.

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*Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, January* 18, 1868.

SIR: I have the honor to transmit herewith, inclosure No. 1, copy of the affidavit of Mr. George Lewis Squires, an American citizen and a pilot for this port, setting forth that, while cruising outside the bay on the 6th instant, he was suddenly attacked by his crew and narrowly escaped death, this crew consisting of four native sailors, leaving, with his boat and all he possessed, for parts unknown.

He was picked up by a native fishing-boat and landed at Misaki, and after traveling on foot in his disabled condition from that place to Yokohama, a distance of about forty miles, he reached here on the 8th instant, in a pitiable state.

After having his wounds dressed, he proceeded to the consulate for the purpose of obtaining redress and the recovery of his property.

Mr. Stahel being absent on a visit to Hiogo and Osaka, he made his statement to Mr. Jay, an American merchant, who is temporarily acting as consul at this port. This gentlemen omitted to give me any notice, and it was not before the 10th instant that I heard of the outrage. I immediately called at the consulate, and then learned that on the previous day (the 9th) Mr. Squires's case had been brought to the notice of the local authorities, it being supposed that he was an American, as he asserted.

As soon as convinced of his nationality, I caused his affidavit to be taken, and also procured a certificate from his surgeon, copy of which I herewith transmit, inclosure No. 2. This was done with all possible dispatch. When furnished with these documents, on the 11th instant, I addressed a letter to the Sorogin and minister for foreign affairs, copy of which I also transmit, inclosure No. 3, urging the immediate issue of orders for the arrest of the criminals and the recovery of the boat and other property, in order that this matter might be fully and promptly investigated.

To see the minister at his residence in Yedo would have involved delay, as personages of that rank still hedge themselves in with many ceremonies and formalities, and a notice of twenty-four hours at least is required before an interview can be obtained. I was well aware that the jurisdiction of the governors of a port does not extend beyond the treaty limits, and at an interview I had with the local governor on Monday, the 13th instant, he readily admitted that such was the case. On that occasion the governor also informed me that on the previous day, (the 12th,) thus *three* days after he received the first notice of the outrage from the consulate, he had dispatched an officer to the province of Idsu; and further, if necessary, to request the local authorities to lend their aid in procuring the arrest of the boatmen and the recovery of the boat. On the way this officer met a messenger, from whom he learned that a boat and two sailers had been taken in charge at Atami, in the province of Idsu, and it was hoped that this boat and the sailors might be identified by Mr. Squires as those his officer was in search of. The boat and the prisoners would be sent to this port as soon as possible.

The Sorogin can order where a governor only can request, and it was with great pleasure, therefore, that I received a letter from the Yedo governor of Kanagawa, by order of the Sorogin, stating that the orders applied for had been issued.

Five days have now elapsed, however, and neither boat nor the arrested boatmen have as yet made their appearance.

The return of Mr. Stahel, our consul, is now daily expected, and I hope still to be able to inform you by this mail that the prisoners and the property have arrived here, and that a commencement with the investigation of this matter has been made in a proper manner.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

No. 1.

*Affidavit of George Lewis Squires.*

CONSULATE OF THE UNITED STATES OF AMERICA,
*Kanagawa, Japan.*

On this 11th day of January, A. D. 1868, before me, A. O. Gay, acting consul of the United States of America for Kanagawa and the dependencies thereof, personally appeared George L. Squires, a Yokohama pilot, who, being duly sworn on oath, deposed and said as follows, viz:

That ever since his arrival in Yokohama he has pursued the trade of pilot, and is the owner of a large Japanese house-boat, fitted out as a pilot-boat and manned with a Japanese crew of four men; that on or about the 1st January, 1868, having come down to Yokohama to get fresh provisions, he had engaged an entirely new crew; that on the 2d January he left Yokohama and went cruising outside the bay; that on the morning of the 6th January, 4½ o'clock a. m., about three or four miles off Cape Sagami and Misaki, heading northwest, he gave the boat in charge to the head sendo (boatman) and went below to get some sleep, and had scarcely laid down when he received a heavy blow on the left part of the forehead from one of the boatmen. He then got up to defend himself. One was in the cabin and two in the door in the companion way. He got hold of the first and tried to put him out; they then gave way until he reached the deck, when they seized him and threw him overboard. While he fell he grasped the fore halliards with the right hand and the gunwale with the other. They then tried to cut one hand with a hatchet, and struck him on the other with a stick, so as to get him clear of the boat. He managed to roll himself back into the boat, and tried to get the hatchet from one of them, in which he did not succeed, and was thrown for a second time overboard. He then got clear of the boat and swam to the forecastle, and got again into the house. They stopped abaft, and did not interfere until daylight.

The other pilot schooner was then within about two miles of them, and he tried to make signs to them to come and assist him, but they did not see it. When his boatmen saw the flag, they put right off to Ohodima. He then tried to get the dingy out, which was lying abreast of the boat-house, and managed to get it half-way overboard before they perceived it. They then tried to smash the boat to prevent him from going into her. He managed to get the boat off, though, and to get into it, defending himself as well as he could. He shoved off and got clear about 9 a. m. They then commenced to sail as fast as they could towards Ohodima; when they were near the island—the last he saw of them—they were steering to the westward, in the direction of Simoda. He was left in the dingy without oars until about 11 o'clock p. m., when a fishing-boat very reluctantly took him on board. About 2 a. m., on the 7th January, he was landed by the said boat at Misaki.

This boat was Japanese-rigged; though no money was left in her, he estimates the value of the property in her belonging to him, among which were his papers, personal effects, tackle, sails, ropes, &c., to amount to about $2,000. The boat is painted black, with a white house with green blinds. The names of his sendo (boatmen) are unknown to him; they were four in number, all stout, strong-built, thickset men, of medium size; they were treated with kindness and never complained, nor had they any reason to do so; they always seemed to be satisfied, and they never had any hard words together.

That he was born in the year 1841, in the city of New York, New York, United States of America, and that the papers proving his identity are on board of the above-mentioned pilot-boat.

Given under my hand and seal of this consulate, the day and year in this certificate first above written.

[SEAL.]

A. O. GAY,
*United States Acting Consul.*

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No. 2.

*Certificate by Surgeon J. J. R. Dalliston, of Yokohama, in the case of George Lewis Squires, wounded by his Japanese boatmen on the 6th January,* 1868.

YOKOHAMA, *January* 11, 1868.

I saw Mr. Squires first about 4 p. m. on Wednesday, the 8th instant. I dressed four wounds on his arms and legs, my assistant, Mr. Lightfoot, dressing five others. They were wounds inflicted by some sharp instrument, three of them being arrested by bone. At this time they seemed to have been done about from twenty-four to thirty-six hours ago; were none of them serious—but from the inflammation which had already set in—

with the exception of one on the left wrist, which, having opened the joint, might be attended with injury to the use of his hand. The arm to-day is much swollen, and there is erysipelas present, which has commenced at the wound in the wrist. He is under treatment, but I am not able to say whether lasting injury will result until the inflammation subsides.

J. J. R. DALLISTON.

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No. 3.

*Mr. Portman to Osasawara Iki No Kami.*

No. 4.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, January* 11, 1868.

I regret to have to inform your excellency that Mr. George L. Squires, an American citizen, and a pilot for this port, while in his boat off Cape Sagami, on the 6th instant, was suddenly and savagely assaulted by his Japanese crew, consisting of a head boatman and three other sailors.

I transmit herewith inclosure No. 1, the sworn statement of Mr. Squires, from which you will perceive that he succeeded in effecting his escape in the dingy or small boat, and that the crew, with his pilot-boat and all he possessed on board, were last seen by him apparently making for Simoda.

A preliminary notice of this outrage was already given by the United States acting consul to the governor of Kanagawa on the 9th instant; yet, as it has not been committed within the Kanagawa jurisdiction, I intended at once to address your excellency on the subject. Mr. Squires's wounds, however, were quite severe; he was twice thrown overboard; he was then, during a whole day, (the 6th instant,) drifting in an open boat, and finally obliged to walk from Misaki to Yokohama, where he arrived on the 8th instant, utterly exhausted from loss of blood, painful inflammation, and fatigue. It was not, therefore, until to-day that his sworn statement could be procured.

I also transmit No. 2, a certificate by Surgeon Dalliston, of Yokohama, of the state of his wounds.

It is now my duty respectfully to urge upon your excellency the immediate issue of orders for the apprehension of the four boatmen mentioned, and for the recovery, on behalf of Mr. Squires, of his pilot-boat and her contents, in order that this matter may be promptly and fully investigated and due justice be done.

I trust your excellency will permit me to observe that those boatmen can, no doubt, easily be tracked from the spot where the boat put in; that these men are probably still with her, and that it cannot be difficult to discover her whereabouts from the description submitted in Mr. Squires's affidavit; and, moreover, a Yokohama house-boat is of an entirely different construction from those used in any other part of Japan.

While reserving such action as may be warranted by the result of the prompt investigation I now beg to solicit, I have, in conclusion, to request that your excellency will be pleased to inform me, at your earliest convenience, that the orders as above applied for have already been issued.

With respect and esteem,

A. L. C. PORTMAN.

His Excellency OSASAWARA IKI NO KAMI,
*Minister for Foreign Affairs, &c., &c., &c., Yedo.*

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*Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, January* 23, 1868.

SIR: On Sunday the 19th instant a cannonade in the direction of Yedo was distinctly heard at this place. It attracted but little attention, though it was unusually heavy.

At about 2 o'clock in the afternoon the several gates of Yokohama were closed, the guards were re-enforced, and all preparations made to repel an attack, which it was supposed might be made at an early moment by Ronins on this town.

In former years such Ronins were disbanded Daimios retainers. This

part of Japan was said to swarm with these people, whose avowed object was hostility to foreigners, and when a foreigner was murdered it was invariably found that robbery had not been the incentive to the deed. For some few weeks, however, Ronins of a different type caused great uneasiness in Yedo; robberies were very frequent and of the boldest description, and when these Ronins met with resistance life was freely taken by them. A few days ago quite a number of these armed ruffians attacked a Daimio's residence at a distance of about twenty-five miles from this port for the sake of plunder and killed all the inmates, who defended themselves to the last. First came a rumor that, emboldened by impunity, they had declared their intention to march on Yokohama, and the governor of this port then issued a notice, copy of which I herewith have the honor to transmit, inclosure No. 1.

The government appeared to be unable to suppress these serious disturbances; troops were dispatched in every direction, but no sooner were those Ronins dispersed at one place, when intelligence was received of their rising at another.

I was informed that it was difficult to account for this Ronin movement; the crops last year had been quite good, and there was very little suffering among the people. It was evident that there existed some sort of organization among those men, and it was suspected that they received their inspiration from Yedo. I should add that a few days previous all retainers of Daimios, even of those who are known to be friendly to the Tycoon's government, had been required to leave Yokohama.

Towards three o'clock, thus one hour later, mounted government messengers came in rapid succession from Yedo, and it soon became known that a fight was raging in the streets of that capital, that artillery was used, and that the three yaskis of the Prince of Satsuma were being destroyed.

A yaski is a large Daimio's place, covering many acres of ground, generally with plain and substantial buildings fronting the street, which are used as barracks, a residence for the chief or prince in the center, and the remainder beautifully laid out as a park, in which often are found shrines for family worship, archery grounds, &c. The Prince of Satsuma in his three yaskis had barrack accommodation for twenty thousand men; but those buildings had remained unoccupied for many years, except by very few of his retainers, and no more than were required to keep them in habitable condition, the chief one among those men acting also in the capacity of the commercial representative of the prince.

The intelligence of the fight in Yedo was scarcely received when a small steamer was perceived rapidly approaching from that direction with a larger one evidently in chase, as occasionally shots were interchanged. When off this port, and at a distance of about eight miles, the small steamer, which was being rapidly overhauled, stopped and allowed her enemy to approach, when a regular engagement at close quarters ensued. Soon another steamer with a bark in tow also approached. The engagement had meanwhile terminated by the chasing steamer hauling off; the small steamer fired one parting shot, which was not returned. It could distinctly be seen in this town from the street fronting the bay that the small steamer had her bulwarks shot away, and also her foreyard. She then stood out to sea, pursued by the second steamer, which had cast off the bark she had in tow, and in this chase soon joined also the steamer just retired from the engagement, which had evidently somewhat recovered from the damage she must have sustained.

Late in the evening I received a message from the governor of Kana-

gawa apologizing for the delay in officially notifying me of the occurrences on that day, owing to his many pressing engagements, and stating that it was only known that fighting had been going on in Yedo, both ashore and afloat; that the three yaskis of Satsuma had been burned, and that all precautionary measures had been taken for the safety and protection of Yokohama. It was further promised that as soon as he received detailed information he would not fail to communicate it to me at once.

If there had been any ill-will towards foreigners on the part of the native population, the principal danger to be apprehended would have been from incendiaries; but the night passed without the slightest alarm; the natives, particularly those in foreign employ, behaved well; and although there was great uncertainty, of course, as to what the next day might bring forth, not the slightest symptom, even of excitement, was perceptible amongst them.

At about nine o'clock on the next morning, (the 20th, Monday,) an aide-de-camp of the governor called on me on his behalf to say that more detailed information had been received from Yedo, and this was to the effect that the government detectives had been successful in tracing the Ronin movement to Satsuma's yaskis as the headquarters, and ascertained that some of the leaders had taken refuge there. An official messenger was sent to demand their surrender for trial and punishment. In sole reply to this demand the messenger had been assasinated on the spot. Troops were then immediately dispatched to destroy the yaskis and kill or capture the Ronins and Satsuma men. The yaskis were destroyed. A few of those men had, however, succeeded in making their escape by land, and a few others in reaching a small steamer of their prince, at anchor in the Yedo roads. The result of the naval engagement was not known, as up to this day no success has been proclaimed. It is supposed that the small steamer, now known to be Satsuma's, effected her escape.

I transmit inclosure No. 2, copy of two notifications officially issued on the 21st instant.

There is reason to suspect that this extensive Ronin movement was not an isolated one, but that it formed part of a vast scheme of surpassing boldness for the purpose of overturning the Tycoon's government and substituting the supremacy of the Prince of Satsuma. By this mail you will receive from Mr. Van Valkenburgh a full account of the success of several Daimios, under Satsuma's leadership, in surrounding the Mikado's palace at Kioto, and thus obtaining the control of that sacred personage.

The inference is, that the magnitude of the Ronin's operations rendered necessary the employment of large bodies of troops, thus preventing reinforcements from reaching the Tycoon, and greatly aggravating his apprehensions for the safety and prosperity of his own domains, as it interfered with trade and the regular collection of revenue; and that the utter inability of the government to suppress their depredations and arrest those armed outcasts must have been disheartening and paralyzing in its effects upon the Tycoon's chief authorities, at no time remarkable for manliness and resolution; and it was no doubt further calculated to demonstrate to the treaty powers the oft-alleged unfitness of the Tycoon and his ministers to hold the reins of government.

On the 15th instant the intelligence of Satsuma's success at Kioto was generally known in Yedo, and on the 17th a part o the Tycoon's castle, the western wing, was destroyed by fire. It was the general impression, even among the common people, that this was the work of incendiaries.

The object in destroying this palace still remains a *mystery*, to which no clue can be obtained; but in the higher circles I have been privately informed a suspicion is entertained that the object was a political one, not merely the destruction of a handsome building and of valuable property, but a deep-laid scheme for the abduction, during the confusion that always attends a conflagration, of the widow of the late Tycoon, a near relative of the Mikado, and to whom he is said to be fondly attached. This young lady always enjoyed the reputation of being exceedingly intelligent, with a will of her own, and of fretting under the restraints of court etiquette, to which she was subjected in virtue of her exalted station.

Whether this suspicion be well founded or not, it appears to be quite certain that, as long as this lady remains in Yedo and under the protection of the Tycoon, the influence of the Prince of Satsuma and his confederates with the Mikado must remain imperfect.

The extensive Ronin agitation—the destruction by fire of that part of the castle which was inhabited by the lady whom it must have been so very important to capture—and the presence of a small steamer off Yedo at a time when at any moment the intelligence of actual hostilities having broken out at Kioto might be expected to arrive here, thus endangering her safety, are three undoubted facts, which, taken in conjuection, induce a strong presumption of the correctness of the suspicion that the abduction of the lady referred to was really contemplated, and that this bold attempt was simply on a par with the one so successfully carried out at Kioto, of securing the person of the Mikado in the very presence of the Tycoon and his numerous armed friends and retainers.

It is presumed that the attempt in Yedo was unsuccessful, and that the lady in question is still in that capital.

It is hopeless to expect that information will be tendered by the Gorogin and prime minister—the only member of the Tycoon's cabinet in Yedo; it is even doubtful whether, under the present circumstances, he could be induced to receive any one whomsoever, except his immediate subordinates. I had no other resource, therefore, than to apply for such information in writing, and I accordingly addressed a letter to the minister, copy of which I herewith transmit, inclosure No. 3.

Mr. Van Valkenburgh, who has been fully informed of all my proceedings by every opportunity, and entirely approved of the same, has authorized me to address you should anything of importance occur. I beg to submit, therefore, that I would not be justified if I omitted to report at once what has recently taken place here—the more so as this intelligence is likely to reach even England and France some two weeks earlier by this Pacific Mail Steamship Company's steamer, both by mail and telegraph, than by either the French or English lines, whether *via* Marseilles, Brindisi, or Trieste.

From my letter to the Japanese minister, to which no reply has as yet been received, you will perceive that I carefully explained to him the advantage of being able to communicate the latest intelligence by the American route, so much in advance of the usual mail opportunities, thus leading him to expect that, whatever measures the President may deem proper to adopt, either in conjunction with the governments of England and France, or otherwise, there is a strong probability of your taking the initiative.

At present perfect quiet prevails, both here and at Yedo. The Monocacy, Commander S. P. Carter, is in this port.

I remain here, under special instructions to await the arrival of the

Stonewall. Further instructions concerning her delivery under the present altered circumstances will no doubt soon be received by me.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 1.

GOVERNMENT OFFICE,
*Yokohama, 18th day of 12th month, at 12 noon,* (*12th January,* 1868.)

We are authorized by the governor of Kanagawa to publish the following information:

*Notification.*

Intelligence having been received to the effect that a band of robbers, assembled on a mountain near Oghino, in the province of Soshiu, at a distance of about ten ri from Yokohama, had burnt a camp (ginya) belonging to Okubo Idsumo-no-kami and killed his retainers; and that the said robbers also intended to visit Yokohama. Itow Iwaitshiro, a vice-governor, had been sent to that place in command of a detachment of troops in order to attack the robbers, on whose approach the latter fled in the direction of Negoyamura and Hashimo-to-mura.

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No. 2.

*Notification.*

MUNICIPAL OFFICE,
*Kanagawa, January* 20, 1868.

The undersigned has been instructed by the governors of Kanagawa to publish the following information, which they have received this morning, at 6 o'clock, from the department of foreign affairs in Yedo:

Since a few months past a band of robbers had assembled on a mountain called Ilsuru-Yama, in the province of Simo-Truke, north of Yedo, and robbed the neighboring people under threats of violence. The same robbers recently burnt the Diamio's camp near Kaghino, in the province of Sagami, south of Yedo, after having taken away the goods stored therein. They further threatened the people during the night, at Yedo, with firearms, swords, and pikes, and sacked several shops of wealthy merchants.

The authors of these crimes have all been traced to Satsuma's yaski again, the shots which were fired on the camp Mita belonging to Sakai Saemonnodio; and on a boat at Shinagawa, occupied by gentlemen of her Britannic Majesty's legation, came from Satsuma's yaski.

It having then become manifest that these ruffians had established their headquarters in the said yaski, a messenger was sent yesterday, the 19th instant, accompanied by a detachment of troops, with a summons to the yaski to deliver up the robbers, but instead of complying with this summons they cut off the head of the messenger, set fire to the building, and fired upon the government troops. Consequently the yaski was surrounded by government and Daimio troops, and then a general fight began between the inmates and the troops outside, which was still going on when the messenger left Yedo.

The government had contemplated no measure of hostility against Prince Satsuma; they had no other object in view than to arrest the robbers, who were hidden in his yaski.

MARTIN DOHMEN,
*Provisional Director of Municipal Office.*

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*Notification.*

KANAGAWA, *January* 21, 1868.

The following information, received from the department of foreign affairs at Yedo, is hereby published by direction of the governors of Kanagawa:

The result of the fight which took place at Yedo, on Sunday last, the 19th instant,

between government troops and the robbers, occupying Satsuma's yaski, has been that a considerable number of the latter were killed and made prisoners. Only a small party of them succeeded in escaping on board one of the Satsuma's steamers, lying in the bay of Shinagawa, which was, however, pursued and engaged by a government steamer as soon as she left her anchorage.

The governors of Kanagawa trust that, in view of the unsettled state of the country and the difficulties which the government has at this moment to surmount, foreigners will, for some time, abstain from their excursions into the country, or, if it be found necessary to proceed beyond the settlement, that they will at least take more than ordinary precautions against all possible danger.

MARTIN DOHMEN.

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No. 3.

*Mr. Portman to Ogasawara Iki No Kami.*

No. 6.] LEGATION OF THE UNITED STATES IN JAPAN,
(*Kanagawa,*) *Yokohama, January* 20, 1868.

The events in Yedo on yesterday, of which I have this day been officially informed by the governor of this port, being acts of overt war between the government of his Majesty, the Tycoon, and a combination of Daimios, of which the Prince of Satsuma is said to be the chief, are of such importance that it is my duty to request your excellency to furnish me with detailed information concerning them at your earliest convenience.

On the 25th instant the United States mail steamer will leave Yokohama for San Francisco, and from that port I shall cause the latest intelligence to be at once transmitted by telegraph to Washington, where it will be received in about twenty-two days from that date, and one or two days later it will reach London and Paris, also by telegraph. By the American route, therefore, the present state of affairs in this part of Japan will be known at the three capitals named within from three to four weeks sooner than by the other routes.

Your excellency will undoubtedly acknowledge, therefore, that it is important that I should be furnished with full and authentic information at the earliest moment, and, if possible, before the 25th instant, the date of the departure of the American mail steamer.

The government of the United States, being sincerely desirous to cultivate and increase the friendly intercourse so happily existing with Japan, will, I feel sure, in view of the faithful and liberal execution of the treaty by the government of his present Majesty, Aotabasi, be pleased to take the important intelligence about to be conveyed into favorable consideration, and to regulate their action and use their influence with the great western powers in a sense best calculated to promote the interests and prosperity of your country.

I shall send a copy of this letter to the American minister at Osaka, and beg to request your excellency to send a copy translation of the same to your colleagues in that city.

With respect and esteem,

A. L. C. PORTMAN.

His Excellency OGASAWARA IKI NO KAMI,
*Minister for Foreign Affairs, &c., &c., &c., Yedo.*

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*Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, January* 25, 1868.

SIR: I have this moment received an official reply from Yedo to my letter of the 20th instant, copy of which formed inclosure No. 3 of my dispatch of the 23d instant.

The mail closes within half an hour, and I have no time, therefore, to transmit a careful translation of that letter by this opportunity. The only points of additional interest conveyed are the admission that the Satsuma steamer effected her escape, and that several hundred men were killed or taken prisoners.

There is reason to believe, I am happy to say, that the number of prisoners is largely in excess of those that lost their lives, as this induces the inference that the fights have been conducted, to some extent, not in accordance with precedent, but with the rules of civilized warfare.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 42.] DEPARTMENT OF STATE,
*Washington, January* 27, 1868.

SIR: Your dispatch of the 2d of December, No. 68, has been received. The telegraph had previously prepared us in some degree for the formal and definitive information which is contained in your dispatch. Upon a first view of the transaction, the Tycoon's resignation of his powers into the hands of the Mikado would seem to be occasion for regret, although we could hardly expect anything less than serious political changes as a consequence of the sudden entrance of Japan into relations with the other nations.

Your dispatch presents the difficulties of the political situation in the empire with great clearness. I shall await with interest the progress of revolution, hoping that the projected reforms may be concluded peacefully, and that the new policy of friendly intercourse with foreign powers will not be seriously obstructed. The crisis is one, however, in which you will be required to exercise all your skill and ability for maintaining the treaty rights of the United States.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 43.] DEPARTMENT OF STATE,
*Washington, January* 27, 1868.

SIR: Your dispatch of the 20th of November, No. 66, has been received and submitted to the President. We learn from it, with satisfaction, that the Japanese government has taken measures to open communication, if possible, with the government of Corea, and that we may indulge an expectation that the United States may be able to avail themselves of the good offices of the proposed Japanese legation to impress upon the Coreans the necessity of a due respect to the power of the United States. The wrong we have sustained is unendurable, and cannot be overlooked. We are nevertheless anxious that our proceedings in the case may be conducted with such moderation as shall not bring in question the dignity and liberality of the United States in their intercourse with such communities in the East as are still remaining rude and unorganized. We look forward with much interest to the further proceedings

of the Japanese government in instituting diplomatic communications with Corea.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 7.] LEGATION OF THE UNITED STATES,
*Hiogo*, *February* 3, 1868.

SIR: As I anticipated in my last communication to you, war has actually commenced between the Tycoon and Satsuma representing the Mikado's government. I have no doubt that the Mikado has by decree abolished the office of Shogoon, (Tycoon,) and that the powerful Daimios having possession of him intend subduing the Tycoon by force of arms.

I have as yet received no communication of any kind from the Mikado or his government, and all information is derived through the Tycoon's officers, probably colored by the medium through which it passes. The events, however, which have transpired since my last dispatch from Osaka, have satisfied us all that the Tycoon is arrayed against the supreme government, and that many of the Daimios are united for his overthrow.

Up to and including Monday, the 27th of January, our conferences were daily held, and we were engaged in making arrangements for the conditions of sale, divisions into lots, form of lease, time and manner of sale, upset price, and annual rent, of the lands in the foreign settlements located both at Osaka and Hiogo, and, so far as the foreign representatives were concerned, unanimously agreed to the same.

They awaited only the approval of Itakura Iga No Kami, the prime minister of the Tycoon, to be published for the information of our citizens.

On the 23d January, by invitation, I had a private and social interview with the Tycoon, at which was present the Prince of Etchizen.

It was merely social, and no business was transacted, the conversation being almost entirely led by the Tycoon, upon the form of government of the United States and England, and the purchase of the Stonewall, which he seemed to be anxious to receive.

Etchizen and Owari, two of the principal Daimios of Japan, had been sent by the Mikado to urge the Tycoon again to return to Kioto.

On Sunday, the 26th January, the Tycoon sent in advance towards Kioto a portion of his retainers, who had been armed as troops with rifles and muskets; about twenty-five miles from Osaka, at Fusima, they fell into an ambush of Satsuma's troops, were fired upon, and after a short but decisive conflict were compelled to fall back. Thus the war commenced. At Yodo, a small village this side of Fusima, they made a stand, re-enforcements were sent them, but they were again defeated by Satsuma's troops, and continued fighting and retreating during the 27th, 28th, 29th, and 30th. In the night of the 30th, about 12 o'clock, Heri Yama Desho No Kami, a member of the second council, called at my legation and gave me the news that the Tycoon's troops were retreating, and he also informed me that he could no longer protect American citizens, and I must take such measures as I deemed necessary for the safety of myself and my countrymen. Fortunately, from the top of my house, in the distance I had seen the burning fires of the yaskis and villages, in the

march of the retreating army, and had made ready to leave my legation at a moment's warning, with all the Americans who were then in Osaka. The citizens of Osaka for three days before had been moving out into the surrounding country with their goods and families, and this also had given me reason to be partially prepared for a hasty leave. The yaskies and property of Satsuma, situated in Osaka, had been seized and burned by the troops of the Tycoon on the night of the 27th. All was excitement in the streets, and the places of business were closed for some days before the 30th.

The United States steamer Iroquois had arrived off Osaka, but some eight miles distant from my legation, two or three days previous, for the purpose of taking myself and suite to Yokohama, when we should be prepared to leave. Knowing this fact, Heri Yama came at the request of the Tycoon, to ask permission for himself the Tycoon, to go on board the Iroquois that night, and to remain there until his vessel, the Kai-o-mar, a Japanese frigate, should arrive early in the morning to take him to Yedo.

I wrote a note to Commander English, of the Iroquois, and the Tycoon evacuated his castle at Osaka, about two o'clock in the morning of the 31st January, accompanied by his prime minister and other high officials, went on board the Iroquois by Japanese boats, remained there for about two hours, and then was transferred to his own frigate, which arrived at daylight, and upon which he sailed for Yedo.

Two of the governors for foreign affairs arrived at my legation about two o'clock in the morning of the 31st, in great excitement, stating that the left flank of the Tycoon's army had been turned, and that Satsuma's troops were then marching upon Osaka, and after disguising themselves as common coolies, afterwards accompanied our party to the fort, a distance of some seven miles, from whence they escaped with other officials to Yedo, in one of the Tycoon's steamers. About four o'clock in the morning the representatives of Italy, the Netherlands, and Prussia, came to my legation, for the purpose of going to the French legation, a distance of about one and a half mile, as had been previously agreed upon in case of danger. Taking all my countrymen, servants, and Japanese escort, and a portion of my goods, we went to the French legation, and there found the French minister ready to leave, and learned that the English minister would meet us, with his large escort of some seventy persons, at the foreign concession, some three miles distant. My escort consisted of seven United States marines, under command of Midshipman Emory, of the United States steamer Iroquois, and eleven Tycoon's men, who had been attached to me on my arrival at Osaka by the government. At six o'clock a. m., the 31st of January, we, the representatives of France, Holland, Italy, Prussia, and myself, went on foot through the streets of Osaka to the foreign concession, and from thence to the fort at the mouth of the river, for the purpose of embarking. The English minister reached the foreign concession, and remained there over night, while the other representatives stayed near the fort until the evening of the 1st of February, when we embarked, the Italian, Prussian, Holland ministers and myself, with our respective suites and countrymen, on board the United States steamer Iroquois, the French minister on board the Laplace, and the English minister embarking on Sunday on board the Rattler. On Saturday, the 1st instant, the town of Sakai, near Osaka, was almost entirely destroyed by fire, while several fires were also burning in the city itself. On Sunday the castle of the Tycoon was destroyed by fire, and many fires were springing up in various directions. The Tycoon's troops were entirely dispersed, and the city was in possession

of the Mikado's forces. At 11.30 a. m. we sailed for Hiogo, reaching this place about one p. m., a distance of eleven miles from anchorage to anchorage. Here all was excitement; the Tycoon's troops had withdrawn, and notice had been given by the governor that he could no longer protect the foreigners, and, in fact, had chartered a steamer to leave the next day for Yedo, to carry off all the Tycoon's officials, and had also made preparations to burn the custom and bonded warehouses, in which was a large amount of foreign merchandise.

Together with the Italian and Prussian representatives, I at once called upon the governor, whom I well knew, and asked him what protection he could afford to our citizens. His answer was *none;* that I must take my own measures to protect them and our flag. I then asked him, as he was about to leave, to give us the custom-house and bonded warehouse as our legation, to which he at once assented, and we immediately raised upon them our flags, and are now occupying the n as legations, with a guard of United States marines from the Oneida and Iroquois.

To-day, the 3d of February, the governor and all officials have left Hiogo, and no one remains with whom to transact business. Most of the property of foreigners here has been put upon board of vessels now in port, although the advent of the foreign representatives seems to have given new confidence to them.

I deemed it prudent to leave Osaka, because it was given up to a revolutionary mob of whom we knew nothing, and from whom we had heard nothing. Our vessels of war were some eight miles from us, and there was no such thing as being protected, with a large city, and a bad and at times impassable bar between us and them. We had no Americans there except such as were attached to the legation, and there was no American property to protect. The sale of the land in the foreign settlement had not been made. My colleagues all agreed with me, and our departure, under the circumstances and at the time, was unanimously resolved upon. Here we propose to remain for the present. Our vessels are now close in shore, and we feel confident that under almost any circumstances we can remain until communication can be had with the supreme government, whatever and whenever that may be.

It is believed that the news of the burning of Satsuma's yaskis at Yedo, by the Tycoon's forces there, and of which you have been informed by Mr. Portman, from Yokohama, hastened the outbreak near Kioto, and at once put an end to such peaceable negotiations as were then going on. Many wounded men had been brought into Osaka on the three days preceding its evacuation, and it is said about 150 were burned in the conflagration which destroyed the castle.

Whether this was the work of the Tycoon's officers, or of his enemies upon entering the castle, is not clearly understood, but my impression is, its destruction was ordered by the Tycoon, to prevent its occupation by his enemies; and in the fire and explosion of ammunition the barracks, in which these poor wounded men were, ignited and were consumed.

Inclosed I transmit No. 1, copy translation of a communication received on the 28th day of January, at five o'clock a. m., from Saki Uita No Kami, Itakura Iga No Kami, and Matsdaira Buzen No Kami, three members of the Gorogio, asking me to issue an order to Americans to confine themselves strictly to the terms of the treaty prohibiting merchant vessels from entering unopened ports, and the sale of arms and ships of war to other than the Japanese government. This was a circular letter, and was sent to each of the several foreign representatives in Osaka.

I inclose No. 2, a communication I at once addressed to those gentlemen, and No. 3, the answer received on the evening of the same day.

I inclose also No. 4, copy of a communication addressed by me to D. L. Moore, esq., United States vice-consul at Nagasaki, similar ones being also addressed to the consular agents at both Hiogo and Osaka, and also to General Stahel, United States consul at Kanagawa. With our consul at Hakodadi I have here no means of communication, but have instructed the vice-consul at Nagasaki to furnish him with copies of any communications and information, should opportunity offer.

I inclose also No. 5, copy of the last communication received by me from the Tycoon's government, about two o'clock on the morning of the 31st January, and after the Tycoon had left his castle at Osaka, on his way to Yedo.

It was four hours after the receipt of this document, and six hours after the flight of the Tycoon, that the foreign representatives left the upper part of Osaka for the embarking place near the fort, seven miles distant from their legations.

I inclose No. 6, copy of a communication from the governor of Hiogo, given to our consular agent at this place on the 1st instant, in which the governor says: "The government will of course use their best endeavors to protect your flag and countrymen, but in the present unsettled and unsatisfactory state of affairs it is desirable that your countrymen withdraw to their ships."

I also inclose No. 7, the last communication received by consular agent at Hiogo, from the governor, on the afternoon of the 2d instant.

I fear difficulties may occur at Yokohama and Nagasaki. The Monocacy is at the former and the Shenandoah at the latter place.

Trusting that my action will be approved, I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

By the order of Tycoon Ieuka, we have the honor to inform you by the present letter the following subjects:

The vessels of Matsdaira Shuri No Daibu, (Satsuma,) having violated the law of Japan, have committed acts of rebellion to which we are now taking necessary steps to put an end.

In consequence of this circumstance, we request you will kindly issue the order to your countrymen to confine strictly themselves to the stipulations of the treaty prohibiting the contraband and stating that the merchant vessels are not allowed to enter for commercial purpose into any port except that opened by the treaty, and that all kinds of arms and ships of war cannot be sold to another except to the Japanese government.

Those stipulations, considered as a mere matter of obligation in time of peace, must be regarded as one of the gravest importance in time of civil war, so that slight fault in carrying out the engagement of this kind in the first case should be considered as the serious infraction of the law of nations in the latter. We therefore trust that, according to the speech addressed to Tycoon Ieuka, in late audiences, by yourself as well as by your colleagues, to assure him that you will remain quite a stranger to the interior affairs of the country, you will kindly adopt such measures as you may think suitable in order to place your countrymen in a limit of maintaining and conforming themselves to the strict sense of the said treaty.

As to what concerns to us, we shall be obliged to employ the force in case of necessity for reducing the rebels to obey the government, and we beg to inform you beforehand that we have already given necessary order to the commanding officers of our navy to keep up careful watch to see whether there is any vessel violating the treaty.

We hope that when this hostility will be opened you will do, in concordance with

us, everything conformable to the usage of your country under such circumstances, on the ground of right and justice. We further request you will be good enough to give orders to your countrymen not to take passage on board of any vessel of the above-named Daimio, because we have already given the orders to seize or to employ the force, if resistance be made, all the vessels of Matsdaira Shuri No Daibu, (Satsuma,) as soon as they appear before us, both commercial and men-of-war.

In case of some foreigners being found on board of such vessel, we shall render every effort to protect them from danger and hand them over to their respective authorities, but in case of employing the force, we are sorry to say that they will most likely endanger the life by their own risk.

We have not slightest doubt to see that the necessary communication shall be made by you to all the commanding officers of your men-of-war to prevent them from interfering when the fire shall be changed between the vessels of Tycoon and those of rebels close to the vessels of your country.

Stated with respect and consideration.

SAKAI MUTA NO KAMI.
ITAKURA IGA NO KAMI.
MATSDAIRA BUZEN NO KAMI.

2D 1ST MONTH, 4TH YEAR OF KEI-AN, (27th January, 1868.)

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

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No. 17.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 28, 1868.

GENTLEMEN: I have this moment received your excellencies' communication of last night, asking me to take such measures as may be necessary to preserve neutrality upon the part of citizens of the United States.

In order that I may be correct in any notice I may deem proper to issue to my countrymen, it will be necessary for me to be informed "with whom is the Japanese government now engaged in war; is Matsdaira Sui No Daibu the only person in arms against the government, or has he allies and confederates?"

I also desire to say to my countrymen, (if such be fact,) that the Japanese government has not only the disposition and ability to protect them and their rights under the treaty in Japan, but that it will do so.

Will your excellencies give to me information upon these points to-day, as I desire, if possible, to leave for Yedo to-morrow.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

Their Excellencies SAKI MUTA NO KAMI,
ITAKURA IGA NO KAMI,
MATSDAIRA BUZEN NO KAMI.

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[Translation.]

4TH OF 1ST MONTH, (JANUARY 28,) 1868.

SIR: We have the honor to acknowledge the receipt of your excellency's communication in reply to ours, on the subject of neutrality on the part of your countrymen with reference to our present internal troubles.

We note your excellency's inquiry therein, and beg to inform you, in answer, that at present there is but one Daimio, Matsdaira Sui No Daibu, against whom the government is in arms. Should, however, others be drawn into the war, we have every confidence in our ability to crush them as well.

We shall be glad to place your excellency in possession of his or their names whenever such shall be the case.

We trust your excellency will give yourself no anxiety on this head, as we have taken every precaution to protect the treaty nations from any danger which might be occasioned through the present exigency.

We desire at the same time that your excellency will not frequent dangerous places, as far as practicable, for the present.

With great respect and esteem,

ITAKURA IGA NO KAMI.
SAKAI UTA NO KAMI.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

No. 20.] LEGATION OF THE UNITED STATES IN JAPAN,
*Osaka, January* 29, 1868.

SIR: Hostilities having commenced between the Tycoon and Matsdaira Sui No Daibu, (Satsuma,) you will be careful to preserve a strict neutrality, and enforce an observance of the stipulations of the treaty with Japan.

Munitions of war can only be sold to the Japanese government, or to foreigners, and merchant vessels must not visit unopened ports. Advise our countrymen to be cautious and prudent, and to refrain from taking passage or service on a Japanese vessel, for fear of danger in case of a naval engagement.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*

D. L. MOORE, Esq.,
*United States Vice-Consul, Nagasaki.*

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[Translation.]

HIOGO, *February* 1, 1868.

SIR: I beg to inform you that in the present disturbed state of Osaka, and the troops of Satsuma still pressing on, it is impossible to say whether they will come on to this or not. The government will, of course, use their best endeavors to protect your flag and countrymen, but in the present unsettled and unsatisfactory state of affairs it is desirable that your countrymen withdraw to their ships.

With respect and esteem,

SHIBATA HUGA NO KAMI,
*Governor of Hiogo.*

PAUL FRANK, Esq.,
*United States Consular Agent.*

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[Translation.]

HIOGO, *February* 3, 1868.

SIR: I find that the present troublesome condition of affairs here directed against our government renders a longer stay on our part most dangerous, and by leaving we avoid most melancholy events, which may occur to this place.

Our retreat from this place will be of advantage to both sides, and to prevent cruel acts we have decided to give up this port for the present time.

Some of the custom-house officials shall remain in the custom-house for the convenience of trade.

I have the honor to inform you by this about our opinion, and shall address you about this subject again.

With respect and esteem,

SHIBATA HUGA NO KAMI.
*Governor of Hiogo.*

PAUL FRANK, Esq.,
*United States Consular Agent.*

NOTE.—This communication is dated February 3. It was received in the afternoon of February 2, by the consular agent. No further communication was made to him and no officers were left to transact any business. The governor and all the Tycoon's officials left on the afternoon of third of February in the steamer Osaka for Yedo.

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[Translation.]

JANUARY 30, 1868.

SIR: As has been stated to you in personal conferences, his Highness the Tycoon has taken great trouble and used his honest endeavors to bring about a reformation of the constitution of our government. The maintainers of Matsdaira Shuri No Daibu (Satsuma) have, however, opposed him in the most violent and arbitrary manner. His Highness therefore addressed two memorials to the Mikado, and having resolved to go up to Kioto, had lost no time in dispatching the first portion of his retinue.

On the 27th instant, as they were on the point of proceeding by the Toba road, their progress was, without any reason whatever, obstructed by the retainers of Shuri No Daibu, who fired upon them. A battle ensued, in which neither side gained any great advantage, but a false proclamation of the Mikado has now been issued, tending to excite the other clans and to add greatly to the strength of their own rebellious position.

The forces of the government have suffered a slight reverse, and the rebels appear to be gradually advancing. The greatest possible efforts are being made to repel and drive them off, but it is to be feared that they may attack this place. We shall of course do our best to afford you protection under the circumstances, but we beg you at the same time to take your own measures for the protection of your national flag.

We desire at this juncture to afford you especial proofs of our friendly spirit, and we think it hardly necessary to remark that the continuance of amicable relations is an object of mutual desire.

In making known to you the present state of affairs, we are, with respect and consideration,

ITAKURA IGA NO KAMI.
SAKEN UTA NO KAMI.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States, &c., &c., &c.*

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## *Mr. Van Valkenburgh to Mr. Seward.*

[Extract.]

No. 8.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 7, 1868.

SIR: Less than one week has elapsed since the date of my last dispatch, yet events of grave importance have transpired within that time.

On the 4th instant, at about 2½ p. m., some troops of the Prince of Matsdaira Bezen No Kami, a Daimio, in alliance with those supporting the Mikado, were passing through the street leading from Hiogo, at the rear of the foreign concession, towards Osaka. They had been met on the street, in Hiogo, by several American and English officers, and were reported as ugly in looks and uncivil in demeanor.

The land prepared for the foreign settlement is a large plain or square, graded and levelled, some four hundred yards in width and six hundred in length. This road leads along the rear of it, and is the continuation of a thickly populated street, upon which, in the Japanese town, those foreigners now residing here have rented, temporarily, buildings for business purposes and residences. Near the corner where this road leaves that populated street, and reaches the plain, two Frenchmen attempted to pass across the procession from one side to the other of the road, when one of the men of the troops, armed with a lance, struck him in the side, while another one attempted to lance his comrade; the thrust, however, was parried by his hand, in which he received a slight wound.

Immediately, the officer who seemed to be in command of the detachment (numbering about one hundred and fifty or two hundred men) dismounted from his horse, gave an order in Japanese, and the troops, most of whom were armed with Enfield rifles, commenced an indiscriminate fire upon all the foreigners in sight, and at the flags, which were flying at the American, English, Italian, and Prussian legations across this square. Immediately there was a general flight of all foreigners towards the custom-house, occupied as legations by myself and the representatives of Italy and Prussia.

The English minister and Captain Stanhope of the English navy hap-

pened to be near the Japanese, and were compelled to fly across the foreign concession, many balls passing in close proximity to them.

The Prussian and Italian ministers, together with Commanders J. B. Creighton, of the Oneida, and Earl English, of the Iroquois, had left me but a few moments before, and were passing toward this road, in the direction of the flying bullets, while I was standing on the second-story verandah of the legation looking at the troops as they marched along. They, of course, immediately returned towards me, and as all the foreigners were flying in the same direction, we were in direct line, about four hundred yards from the fire. Several balls struck the building, and many more passed in uncomfortable proximity.

I had a guard of but ten marines that had been kindly furnished me by Commanders Creighton and English; immediately I ordered them out, and, following across the square with them, under command of Midshipman Emory, directed a fire at the troops. Some volleys were fired before the English legation guard, composed of about fifty of the soldiers of the 9th English regiment, were out, one-half under the direction of Sir Harry Parkes, following to support the American marines in their pursuit of the Japanese; the other half picketing the street from Hiogo to prevent the arrival of any more of the troops of Bezen.

The French legation guard immediately followed, and in a very few minutes Commanders Creighton and English had landed one hundred and fifty sailors, well armed, and two brass howitzers.

The marines of my guard had gone first in pursuit, accompanied by M. Von Brandt, the Prussian chargé d'affaires, and Mr. E. A. Schoyer, my private secretary. I remained behind in the settlement, and on the landing of our sailors dispatched one company of about seventy-five, together with one howitzer, to support the American, English, and French troops in pursuit of the enemy. The other company I divided into three parties, sending one with one howitzer to stop the ingress to the settlement through the Hiogo street, one other to prevent a flank movement upon our right, and the remainder upon the beach at the American consulate, to patrol against an attack in that direction. The English fleet landed about three hundred sailors and marines, with two rifled guns, and the French about fifty. We had in the course of half an hour about five hundred men picketing the street and following the enemy, who retreated, threw away their baggage, dispersed, and took to the hills.

Several volleys of musketry were fired at them, some of which were returned, but I fear none of the Japanese were killed; and if any were wounded they were carried off. We found quantities of Japanese baggage, medicine chests, and other articles of no value; and three small brass howitzers, easily carried by one man, were picked up by some of the sailors or soldiers on their return.

There were in the port of Hiogo some steamers belonging to different Daimios of Japan and to the Japanese government. The representatives of France, Great Britain, Holland, Italy, Prussia, and myself, immediately held a conference and unanimously agreed to ask the naval commanders present to take possession of and hold these steamers for the present, to prevent any hostile demonstration by them, either here or elsewhere.

There were in the port the United States steamers Oneida and Iroquois, the English iron-clad Ocean, and two gunboats, and the French corvette Laplace.

The naval commanders, at the request of the representatives, on the morning of the 5th, undertook the defense of the settlement, and erected earthworks and batteries, landing abont ten guns and howitzers, and in all about six hundred marines and sailors.

They stopped the road passing at the rear of the settlement, and picketed the street towards the village of Hiogo, as far as it was occupied by any foreign resident, and then barricaded it.

On the night of 6th February, some armed Japanese succeeded in getting through a cross street leading from the hills, and in the rear of our barricade on the main street a small skirmish occurred between them and some of the American pickets, in which one marine lost three fingers, cut from off his right hand by a Japanese sword, and a sailor was wounded slightly on the chin.

Troops had for several days been marching towards Osaka, and the operations of our naval commanders entirely closed the main road that had been used for centuries, compelling all armed persons to go in rear of Kobé about one mile, by a way which had been little traveled.

All the men-of-war in port came close in shore, taking position to protect the foreign quarter of the town, and every preparation was made for defense in case of attack. None has as yet been made, although a large number of the troops of Bezen are in camp at Nishinomed, a little village about nine miles distant, and between this place and Osaka.

This afternoon we have received information that an envoy of the Mikado is in the town of Hiogo, desirous of communicating with the foreign representatives, and we have invited him to a conference to-morrow at 12 o'clock, noon, at a large room in the custom-house, stipulating, however, that he shall come here by water, and be accompanied by a small retinue.

In the first fire on the foreigners, Walter G. Clark, an apprentice boy on board the Oneida, was wounded in the breast with a musket or rifle ball. The ball has not been extracted, but the man is improving rapidly and will probably recover. In the skirmish of last night, Michael J. Dewyre, marine, from the Oneida, had three fingers of his right hand cut off, and Gustavus Genders, a sailor of the Iroquois, was slightly wounded on the chin; both are doing well. These are all the casualties, except the two Frenchmen above mentioned, whose wounds were slight.

I transmit herewith inclosure No. 1, a communication immediately made by me to Commander Creighton, similar requests being made by the English and French ministers to their respective commanding naval officers.

Inclosure No. 2, letter from Commander Creighton, under date of February 5, announcing that he had co-operated with the English and French naval commanding officers, and that they had seized four of the Japanese steamers.

Inclosure No. 3, copy of the resolution arrived at by the foreign representatives at a conference held on the morning of the 5th February, inviting the respective naval commanding officers to take military management of the port, and to hold it.

Inclosure No. 4, copy of a communication addressed by me to Commander Creighton, transmitting the resolution last above mentioned.

Inclosure No. 5, copy of communication from Commander J. B. Creighton, transmitting a copy of the answer of the naval officers to the request of the representatives.

Inclosure No. 6, copies of our notices translated, by direction of the representatives, into Japanese, posted in the streets of Hiogo and Kobé, and sent to Osaka, and in different parts of the country on the 4th and 5th instants.

Inclosure No. 7, copy translation of a notice found posted in the streets of Hiogo and Kobé, purporting to be issued by Chashin, one of the large Daimios, and a supporter of the Mikado. This is the same Chashin who

recently was at war with the Tycoon, and who has been restored to his position by the present Mikado.

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Having acted in this matter according to my own judgment, and in perfect unison with all my colleagues, I hope such action will meet with the approval of the President and yourself.

It affords me great pleasure to acknowledge the promptness with which Commanders Creighton and English acted upon my suggestions during this affair, and their gallantry, as well as that of the officers and men under their command.

I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 21.] LEGATION OF THE UNITED STATES IN JAPAN,
*February* 4, 1868.

SIR: You as well as myself witnessed the outrageous and unprovoked attack by a party of armed Japanese upon the foreigners in the foreign concession at this place, this afternoon, by which one of the American sailors attached to the Oneida was seriously wounded by a rifle ball, and two French soldiers were wounded by lancers. It is a mercy that in the continuous firing we were not all killed or wounded.

This may be considered an act of war, and perhaps is authorized by the Japanese government. On a hurried consultation with my colleagues, Great Britain, Holland, Italy, and Prussia, we have decided at once to take such measures as may be thought necessary to protect our countrymen against any further attack by land or water.

There are a number of Japanese war and other steamers in port. Will you please consult with the commanding officers of the French and English vessels now in port, and take such measures as you may jointly agree upon to prevent those Japanese vessels from committing any hostile act here, or from leaving the port at present.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of United States in Japan.*

Commander J. B. CREIGHTON,
*Senior U. S. Naval Officer, Hiogo, commanding U. S. steamer Oneida.*

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UNITED STATES STEAMER ONEIDA,
*Hiogo, Japan, February* 5, 1868.

SIR: I have the honor to receive your communication of the 4th instant, and at your request have held a conference with commanding naval officers present, relating to the seizure of the Japanese steamers at Hiogo, and in order to prevent these Japanese vessels from committing any hostile acts here or from leaving this port at present.

I have, in co-operation with the French and English, seized four Japanese steamers, and they are anchored under the guns of the naval vessels in the harbor.

I am, very respectfully, your obedient servant,

J. BLAKELY CREIGHTON,
*Commander and Senior Officer.*

General R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

---

HIOGO, *February* 5, 1868.

Present, the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States.

The undersigned, having come to the conclusion, after mature deliberation, that it is of great importance to hold the foreign settlement at this place, resolve to invite the respective commanding officers to take into their hands the entire military management of this measure, and to inform them what part of the town or settlement they can hold with the force at their disposal.

The undersigned, however, would wish to see that part of Kobé in actual occupation of foreigners protected, if this be possible.

LEON ROCHES.
HARRY S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VON BRANDT.
D. DE GRAEF VAN POLSBROEK.

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No. 22] LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, February* 5, 1868.

SIR: I have the honor to communicate to you the result of a conference this morning held by the several representatives of the treaty powers now present in this place:

"HIOGO, *February* 5, 1868.

"Present, the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States.

"The undersigned, having come to the conclusion, after mature deliberation, that it is of great importance to hold the foreign settlement at this place, resolve to invite the respective commanding officers to take into their hands the entire military management of this measure, and to inform them what part of the town or settlement they can hold with the power at their disposal.

"The undersigned, however, would wish to see that part of Kobé in actual occupation of foreigners protected, if this be possible.

"LEON ROCHES.
"HARRY S. PARKES.
"CTE. DE LA TOUR.
"R. B. VAN VALKENBURGH.
"M. DE BRANDT.
"D. DE GRAEF VAN POLSBROEK."

In accordance, therefore, with the desire above expressed, you, together with Com mander Earl English, of the United States steamer Iroquois, are invited to consult with commanding officers of vessels of other nations, having treaties with Japan and now in port, and take measures accordingly.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander J. B. CREIGHTON,
*Senior United States Naval Officer, Hiogo.*

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UNITED STATES STEAMER ONEIDA, (3d rate,)
*Hiogo, Japan, February* 6, 1868.

SIR: In reply to your communication of the 5th, I have the honor to communicate the following, which is a true copy:

"HIOGO, *February* 5, 1868.

"The commanding officer of the naval force at Kobé, in reply to the communication received from the foreign ministers here present as to what part of the foreign settlement at this place they can undertake to hold, beg to state that under present circumstances they will undertake to hold that part of the settlement from the gate in the main street to the concession, it being understood that no armed Japanese are allowed to pass through that part; but that, should a regularly organized attack be brought against us with very large bodies of troops, they could not undertake to hold more than the concession grounds.

"CHANDOS S. STANHOPE,
"*Captain of her Majesty's Steamer Ocean.*
"ARNET,
"*Captain de Laplace.*
"J. BLAKELY CREIGHTON,
"*Commander of United States Steamer Oneida.*
"EARL ENGLISH,
"*Commander of United States Steamer Iroquois.*"

Very respectfully yours,

J. BLAKELY CREIGHTON,
*Senior United States Naval Officer, Hiogo.*

General R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

*Notices posted by the foreign representatives, in Japanese, throughout Hiogo and Kobé, and also sent to Osaka, and in different parts of the country.*

No. 1.

To-day, as Ikida Isé and Hikei Tade Ware, retainers of Matsdaira Bezen No Kami were passing through the town of Kobé, their followers, without provocation, attacked and wounded foreigners with spears and fire-arms. You must immediately come forward and explain this matter. If full reparation be not given, it will be assumed that you are the enemy of foreign nations, who will take measures to punish this outrage. It must be borne in mind that this matter will then concern not only the Bizen clan, but may also cause grave trouble to the whole of Japan.

This declaration is made by all the foreign representatives.

HIOGO, *February* 4, 1868.

No. 2.

In consequence of the outrage committed yesterday by Bezen's men, the foreign men-of-war have seized all the steamers owned by Japanese anchored in the port of Hiogo. This is because, as stated in the proclamation of the foreign minister issued yesterday, the affair concerns not only the clan of Bezen but all the clans throughout Japan.

The above notification is issued by the representatives of all the powers.

FEBRUARY 5, 1868.

No. 3.

In consequence of the outrage committed yesterday by the retainers of Matsdaira Bezen No Kami, the foreign powers are taking their own measures, but those measures do not affect either the townspeople or the villagers, who should carry on their avocations quietly and without excitement.

The above notification is issued by the representatives of all the powers.

FEBRUARY 5, 1868.

No. 4.

In consequence of the outrage committed yesterday by the retainers of Matsdaira Bezen No Kami, foreign powers have taken measures for the protection of this place; still all persons, with the exception of men bearing arms or carrying swords, will be allowed to pass through freely.

The above notification is issued by the representatives of all the powers.

FEBRUARY 5, 1868.

*Copy of Choshin's notice to the people of Hiogo and Kobé posted in the streets in Japan.*

The fighting which took place here yesterday does not involve any misfortune to the inhabitants, and therefore not even old people, women, and children need be frightened.

The carrying off of property and living in the country is a great inconvenience to the sick and such persons, and you will therefore take care not to create any excitement of this kind.

We have come down here to put down any disturbance, and you may therefore be free from any anxiety.

CHOSHIN.

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## *Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, February* 15, 1868.

SIR: On the 3d instant the intelligence was received here that the forces of the Tycoon and those of Satsuma and his confederates were engaged in battle, between Osaka and Kioto, and letters arrived on the next day by her Britannic Majesty's steamer Rattler with the information that the former had been defeated, after a conflict which commenced on the 27th ultimo and lasted three days.

It also soon became known that the Tycoon was on board of a large steamer, which had been seen going up to Yedo on the previous evening.

On the 5th instant, another steamer, with the governor and all the Tycoon's civil officers of Osaka and Hiogo, arrived, and also letters from

Mr. Van Valkenburgh, with full intelligence of recent occurrences: the immediate departure of the Tycoon for Yedo after the loss of the battle; the destruction by fire of his castle at Osaka; the extensive conflagrations in that city, and the withdrawal of the legations to Hiogo. The impression prevailing that the Prince of Satsuma and those who acted with him would at once attempt to carry the war into the Tycoon's own territory, and particularly in Yedo, the seat of his government, Mr. Van Valkenburgh furnished me with instructions for my guidance.

Steps for the safety of the archives, under all circumstances that might arise, had already been taken, and after communicating with Commander Carter, of the Monocacy, I proceeded to Yedo, accompanied by a corporal and two marines of that ship.

An assurance was soon given that the government had not the remotest intention of retaliating upon any one for the treachery to which they had recently been exposed, and which caused them the loss of the late battle. No Daimios grounds would be destroyed nor would any prisoners suffer, and they were well cared for.

I had given notice that I had come to Yedo for the purpose of obtaining information concerning the course the Tycoon's government now intended to adopt in view of the anticipated approach of the struggle in Yedo, and in this part of Japan.

In concert with Commander Carter, I offered the use of the Monocacy for any valuables, such as archives, &c., the Tycoon might wish to place in safety. I also suggested, for the better maintenance of strict neutrality, that an arrangement might be made to keep the war out of Kanagawa and its treaty limits of ten ri, or about twenty-five miles, by issuing a notice to that effect; and I further inquired whether, since the Tycoon's return to Yedo, it would be his intention to open that city to American trade and residence before the 1st of April next, as the reasons for the extension of the opening to that date had now ceased to exist.

In reply, I was informed that my communication would at once be submitted to the Tycoon, who was in consultation with his council in permanent session.

All information desired, I was assured, would, as far as practicable, be freely and frankly given; and on the strength of this assurance and to test it at once, I asked that the object might be disclosed to me of the mission of Mr. Locock, the English secretary of legation, who had come up from Osaka in the Rattler, and who had then just returned to Yokohama.

Mr. Locock, on behalf of the English minister, I was told, had asked three questions:

1. If a new treaty is to be made, with whom must the foreign representatives make it? 2. Where is it to be made? and, 3. How about Hiogo? Under whose authority is that port?

The Tycoon's government, evidently "startled by these unfriendly questions," had replied that they had faithfully observed their obligations under the treaties and would continue to do so; that they had lost a battle, it was true, but that that battle was by no means a decisive one, and as for Hiogo—that the American and Prussian representatives had assured their governor that that port would remain open, and that the people would be protected by them.

I was also furnished with an account, as far as known, of the recent battle. The struggle must have been severe; the losses on both sides were very large, principally in officers; the precise number of the forces engaged could not be given, but as soon as full returns were received they would be communicated.

Considering that but few of the men engaged had ever been under fire before, that a great many of them were armed with breech-loading rifles of the latest invention, both American and European, that they were well provided with rifled artillery, and used it, if not with great skill, certainly with much courage, as their trains of wounded one sees every day on the road to Yedo abundantly show. It is now well proved that the Japanese differ greatly from the Chinese, and that those two nations cannot be measured by the same standard.

The Tycoon's government remaining the *de facto* government, with whom I am instructed to transact the current business of the legation, informed me that my communication had been received by the Tycoon with much pleasure. This government had quite as many troops and a much stronger treasury than his enemies, the southern Daimios.

"It was at the invitation of the Mikado that he intended to go to Kioto; his advance guard was suddenly attacked by Satsuma, and no battle was expected. The Mikado, a very young man and a child almost, had been perfectly ignorant of the true state of things; he was not even aware, perhaps, that the officers of his court had been changed by the Prince of Satsuma, who acted in a most outrageous manner, and styling his acts as being in the name of the Mikado without any authority whatever but his own."

This, however, is a political matter, with which Mr. Van Valkenburgh is much better able to deal at Hiogo, where the statement of the other side can also be received for comparison.

On the 11th instant, by invitation of the minister for foreign affairs, I visited him at his official residence, on which occasion he tendered me the Tycoon's thanks for the offer of the Monocacy in case he should have valuables, such as archives, &c., to place in safety. He further informed me that the suggestion in regard to issuing a notice to secure the inviolability of the port of Kanagawa within the treaty limits had been accepted, and we then agreed upon a notice in the English and Japanese languages, a copy of which, printed at the government office in Yedo, I herewith have the honor to transmit. Inclosure No. 1.

The minister further informed me, that in order to compensate the American merchants for the absence of trade at Hiogo and Osaka under the present circumstances, it was intended to open Yedo at an earlier day than the first of April; and he at once accepted the suggestion I made, that before proceeding with that measure he would address a letter to Mr. Van Valkenburgh on the subject for the information of himself and his colleagues.

Mr. Van Valkenburgh, who has approved of all my proceedings, will be furnished by the first opportunity with printed copies of the notice, and if it be in harmony with the policy in effect at the time of their receipt, I hope that the principle of inviolability of a treaty port within the stipulated limits may also be recognized by those who now oppose the Tycoon's government.

I returned to this place to-day, and trust soon to receive more detailed information for transmission to the department and Mr. Van Valkenburgh.

During his eventful residence at Osaka and Hiogo, Mr. Van Valkenburgh has undergone much privation and great hardship, and I hope he will soon be able to return. It is still believed by many that eventually the war may come this way again. I do not share those anticipations. Yedo is still a place with about five times the population and the wealth of Osaka, as it was before the recent conflagrations, and of much more

importance than the whole province of Satsuma. The most perfect tranquillity apparently prevails now in Yedo, and the government of the present Tycoon is deservedly popular.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Notification.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yedo, February* 11, 1868.

As on the 19th January last, the port of Kanagawa was closed by a naval engagement being fought within its treaty limits, and with the view of preventing a repetition of similar infringements of the treaty between the United States and Japan, notice is hereby given to whom it may concern, and for the better observance of strict neutrality by the United States, that any hostile encounter, or even attempt to that effect, within the ten ri treaty limits of Kanagawa, on the sea or on land, by the forces of either party to the civil war now existing in Japan, will be considered a deliberate infringement of the said treaty, and as such must expect to meet with a decided expression of the displeasure of the United States.

A. L. C. PORTMAN.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 9.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 15, 1868.

SIR: Immediately after the attack by the troops of Bezen on the foreigners in this place on the 4th instant, as I have communicated to you in my No. 8, I took measures to procure statements in writing from such of the American citizens as were present and saw the occurrence. The same course was pursued by some of my colleagues, and I have now the honor to transmit to you copies of the same.

Inclosure No. 1 is made by W. H. Morse, esq., our consular agent at Osaka, who was residing here, and being upon the tocaido, or main street, had a good opportunity to observe all that took place. As I crossed the sand-flats, or concession grounds, with the marines in pursuit of the Japanese, I met him and Mr. Blake bringing in the wounded man.

Inclosed No. 2 is by Mr. F. Blake, an intelligent American merchant, who also had excellent opportunities for knowing what actually took place.

Inclosure No. 3 is made by three American gentlemen by the name of Marks, brothers, and merchants also on the main street.

Enclosure No. 4 is the statement of Walter G. Clark, apprentice boy on the Oneida, who was wounded; and No. 5 is the report of Surgeon Suddard, of the Oneida, forwarded to me at my request by Commander Creighton.

No. 6 is the statement made by F. Rougement, senior lieutenant of her Majesty's ship Ocean, and only shows the ugly disposition of the troops before entering the concession, where the outrage was committed. He saw them some two miles before they reached the sand-flats, at that time estimating their number at seven hundred or eight hundred. If there were so many they could not have all passed through the settlement at the time of the firing, as I saw them, and I estimated them at one hundred and fifty or two hundred. This statement is corroborated by two Ameri-

can naval officers, and one other English officer, who were with him.

Inclosure No. 7 is that of Joseph Colins, an English gentleman, who seems to have been rudely treated by them before they fired.

Inclosures No. 8 are statements of five Prussian subjects, kindly furnished me by the Prussian chargé d'affaires.

No. 9 is made by the three French non-commissioned officers, and upon whom the attack was first made with lances.

No. 10 is a rough plan of the settlement, showing the custom-house occupied as legations, the sand-flat or open space, prepared to be sold in lots to the foreigners, the tocaido, or main street, leading from Hiogo to Osaka, and the Japanese residences and places of business of the several persons making the statements.

I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 1.

*Mr. Morse to Mr. Van Valkenburgh.*

No. 8.] HIOGO KOBÉ, *February* 5, 1868.

SIR: As per your request, I hasten to lay before you a few facts connected with the late attack upon our settlement made by the Prince of Bezen.

On the 4th instant, I observed during the forenoon, at different times, baggage carriers and straggling soldiers going in the direction of Osaka.

About 2¼ o'clock p. m. I was looking from the window of my house in the Otay Cho street, when I observed an official of rank pass by mounted on horseback. He was surrounded by a number of men armed with matchlocks, rifles, and spears. A few moments after he had passed there was a great commotion in the train; baggage carriers and spearsmen dropped what they were carrying in the road, and rushed for the houses and side lanes, evidently in a great state of alarm. Thinking that an attack had been made, I went immediately for my revolver, and while leaving my house met Mr. F. Blake, who remarked, "come along, an attack has been made upon us."

I accompanied Mr. Blake as far as the sand-flat, saw a number of Japanese firing in the direction of the legations, and attempted to cross over, with several others, whereupon we were fired at. We retreated for a moment, when Mr. Blake espied a foreigner stretched upon the ground apparently dead. We at once directed our course towards the body, and were fired upon again, but managed to secure the person of the wounded man, whom we found to be a sailor belonging to one of the American men-of-war in port. After carrying the wounded man for a short distance we were relieved, when I met your excellency.

I was afterwards informed by one Reitcher (a Prussian subject) that the mounted official referred to got down from his horse, spoke to his body-guard, who immediately said "Teppo oasi," and at once commenced to fire, as stated above.

I have the honor to remain your obedient servant,

W. H. MORSE,
*United States Consular Agent for Osaka, now at Hiogo.*

His Excellency General R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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No. 2.

*Mr. Blake to Mr. Van Valkenburgh.*

KOBÉ, TREATY PORT OF HIOGO, *February* 6, 1868.

DEAR SIR: In accordance with your request, I herewith beg to lay before you the facts which came under my own personal observation in connection with the unfortunate occurrence which took place within the foreign concession limits on the day before yesterday.

On the day above mentioned, say Tuesday, February 4, at about half-past two o'clock p. m., while standing in front of the house occupied by myself on the main street of

the town, witnessing the passage by of a train of Daimio's retainers coming from the direction of Hiogo, and going towards Osaka, I heard the discharge of firearms in quick succession from the direction of the foreign concession close by, and looking up the street saw a two-sworded officer quickly dismount from his horse, and the baggage carriers along the street, in both directions, in a state of great confusion.

I immediately ran up the street to the boundary of the concession, to learn the cause of the disturbance, calling out to Mr. W. H. Morse, United States consular agent for Osacca, whose house I passed on the way, to follow; and on gaining the head of the street saw the armed men of the train, with rifles, or firearms of some description, scattered along in the vicinity of the road, firing (apparently as fast as they could load) towards the English consulate and custom-house, occupied by the ministers of the foreign legation, and *at all foreigners* in sight.

Seeing this open attack, I made at once with all speed across the open space towards the buildings above mentioned, but had not proceeded far when I saw the body of a man lying off to the left, about one hundred and fifty yards from the road and the firing party, which appeared to be again marching; noticing the man move, as if endeavoring to rise, I ran towards him, and had got within about twenty yards of him, when I saw two of the Japanese step forward from their ranks, take deliberate aim, and fire at me a few seconds after the other, the whistle of both balls sounding in close proximity. I retreated a few paces, and the train appearing to be again on the move, I reached the man, who appeared seriously wounded about the chest by a rifle ball, and lifting him as much as possible from off the ground, commenced dragging him out of reach of further danger, when, being joined by Mr. Morse and another gentleman, whose name is at present unknown to me, we lifted and carried him towards the custom-house.

The wounded man, I have subsequently learned, was one of the crew belonging to the United States steamer Oneida, now lying in this harbor.

I remain, dear sir, your obedient servant,

F. BLAKE.

His Excellency General R. B. VAN VALKENBURGH,
*United States Minister to Japan.*

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
*Hiogo, Japan, February 7*, 1868.

On this seventh day of February, A. D. 1868, before me, Paul Frank, consular agent of the United States of America for Hiogo and the dependencies thereof, duly appointed and sworn, personally appeared Mr. F. Blake, to me personally known to be the person described in and who executed the foregoing statement, and who acknowledged to me that he executed the same freely and voluntarily to and for the uses and purposes therin named.

Given under my hand and the seal of this consular agency, the day and year in this certificate first above written.

[SEAL.]

PAUL FRANK,
*United States Consular Agent.*

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No. 3.

*Messrs. Marks to Mr. Van Valkenburgh.*

HIOGO, *February 7*, 1868.

SIR: We have the honor to report to you the following facts, which came under our personal observation during a certain time of February 4, 1868:

On the above mentioned date, at about 2.30 p. m., we were all in our house, which was located on Main street facing the foreign concession, when we were startled by a report of musketry in close proximity to our house.

We were called out to see what the Japanese were doing, and at once saw an armed body of them, which we should judge to be from one hundred and fifty to two hundred, armed with rifles and spears, who immediately opened a deadly fire on all foreigners that were near them. We saw our danger and made for the custom-house under a continuous firing of musketry. Our escape was only through the mercy of God.

The sailor boy of the United States sloop-of-war Oneida fell wounded close to us. We were under fire about five minutes. We saw her Britannic Majesty's minister, Sir Harry Parkes, running some distance from us, and also other foreigners.

We gave no cause or provocation in any way to those armed Japanese to fire on us; we were in place of business, and knew nothing of the whole affair until we were called.

In consequence of this our firm has been serious losers.

We are, sir, your obedient, humble servants,

A. MARKS.
H. MARKS.
L. MARKS.

His Excellency General R. B. VAN VALKENBURGH,
*United States Minister, &c.*

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
*Hiogo, Japan, February* 8, 1868.

On this eighth day of February, A. D. 1868, before me, Paul Frank, consular agent of the United States of America for Hiogo and the dependencies thereof, duly appointed, personally appeared A. Marks, H. Marks, and L. Marks, to me personally known to be the persons described in and who executed this statement, and who acknowledged to me that they executed the same freely and voluntarily to and for the uses and purposes therein named.

Given under my hand and the seal of this consular agency the day and year in this certificate first above written.

[SEAL.]

PAUL FRANK,
*United States Consular Agent.*

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No. 4.

*Statement of Walter G. Clark, Second-class apprentice belonging to the United States steamer Oneida.*

I was in company with two or three of the gig's crew going across the concession towards the main street, and I saw these Japanese marching along, but took no particular notice of them, as I had been among similar ones before, and took them to be only a procession. When I was within about twenty-five yards of the main street, and opposite the Oneida house, the leader dismounted, and they commenced firing. I then turned and ran towards the legation, but had not got more than four or five yards when I was shot. I saw nothing that caused them to fire. They seemed to fire only at the Europeans on the concessions.

WALTER G. CLARK,
*Second Class Apprentice.*

Witness: H. WALTON GRINNELL,
*A. V. Lieutenant United States Navy.*

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No. 5.

*Mr. Suddard to Commander Creighton.*

UNITED STATES STEAMER ONEIDA, (3d rate,)
*Hiogo, Japan, February* 15, 1868.

SIR: In accordance with your request of this day, I have the honor to inform you that Walter G. Clark, second-class apprentice, was brought on board of this ship about 2 p. m. of Tuesday, the 4th instant, with a gunshot wound of the right shoulder. The ball, supposed to have been discharged from a musket, entered near the top of the shoulder and penetrated inwards towards the scapular region. The shoulder joint seems to have escaped injury. Neither at the time of injury, nor since, has the position of the ball been ascertained. He has not had a bad symptom, and seems to-day to be proceeding rapidly to a state of convalescence. From present appearances, I am of opinion that the injury is not likely to result in permanent inconvenience.

Very respectfully, &c., your obedient servant,

JAMES SUDDARD,
*Surgeon United States Navy.*

Commander J. B. CREIGHTON, U. S. N.,
*Commanding United States steamer Oneida.*

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No. 6.

*Mr. Rougement to Mr. Parkes.*

HIOGO, *February* 7, 1868.

SIR: In compliance with your request, I beg to forward a statement concerning the appearance and strength of the troops who fired at the foreign residents on the afternoon of the 4th instant.

On the day in question I was walking with three other officers towards the upper end of the town of Kobé, when I observed a body of troops coming down the street

towards me, and when within twenty yards, the officer who was leading them spoke in a violent manner to me, which I understood meant to get out of their way. This I accordingly did, and stood at one side of the street till the whole force had passed, during which time the greater part of them scowled at me in such a manner that I had a feeling of uncertainty as to whether they would molest me or not. As far as I was able to judge, I should say they consisted of from seven to eight hundred men.

I have the honor to be, sir, your obedient servant,

FRANK ROUGEMENT,
*Senior Lieutenant her Majesty's steamer Ocean.*

His Excellency Sir HARRY PARKES, R. C. B., *&c., &c., &c.*

The undersigned officers were in company with me, and confirm this statement.

THOMHAGH GURDEN,
*Lieutenant.*
H. WALTON GRINNELL,
*Lieutenant United States Navy.*
THOMAS S. TULLUCK,
*Passed Assistant Paymaster United States Navy.*

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No. 7.

*Affidavit of Joseph J. Colins.*

In her Britannic Majesty's court at Hiogo, the 10th day of February, 1868.

Personally appeared before me, her Britannic Majesty's acting consul for Hiogo and Osaka, Joseph J. Colins, who made depositions as follows:

At about half-past 1 o'clock in the afternoon of Tuesday last, the 4th day of February, I was in my house, which is situated in the main street of Kobé, near to the temple called Gokurakugi, when I was informed by the plasterers who were at work on my house that some Japanese troops were coming along the street. I left my house and crossed over to the other side of the street in order to see them pass. As they approached the spot where I was standing, I heard the man who preceded the troops in the front rank call upon the people in the street to go down on their knees. The Japanese at once prostrated themselves, but I remained standing some three feet from the houses on the street. Upon coming up to where I was standing, the man who had before called upon every one to kneel down shouted to me personally to prostrate myself. I did not reply to him, but remained where I was, whereupon he brought down his rifle and charged at me therewith, catching me in the pit of the stomach, and knocking me up against the houses.

He then returned to his place in front of the ranks, and passed. I at once made up my mind to report this occurrence, and for that purpose ran along the main street, past the line of troops, and arrived at the corner of the settlement near to Marks & Co.'s store, where I saw her Majesty's minister and other gentlemen standing. I at once reported what had occurred to Sir Harry Parkes, and he, with others who were with him, and myself, all crossed the street into the settlement. We had not been there long when the troops came up, preceded, however, by a rush of common people. We turned round and were walking away in the direction of the custom-house, when I happened to look round and perceived that the troops had halted, and were kneeling down, apparently by direction of an officer, who had been hitherto on horseback, but had now dismounted, when they rose to their feet again, presented their rifles in the direction in which we were going and fired a volley at us, and then kept up an irregular fire at us until we reached the custom-house.

JOSEPH J. COLINS.

This deposed on oath before me.

J. FRED. LOWDEN,
*Her Majesty's Acting Consul for Hiogo and Osaka.*

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No. 8.

*Statements of Prussian subjects and protégés made before A. Evers, esq., his Prussian Majesty's consular agent at Hiogo, on the 7th February, 1868.*

FREDERICK VON FISHER.

On the 4th February, between 2 and 3 o'clock, I was standing with three French non-commissioned officers before my house (Mr. Legeune's) in the main street at Kobé, quite near the foreign concession. One of the non-commissioned officers of the name of Callier crossed over to the other side of the street to buy some tobacco. During this a troop of Japanese soldiers approached and passed along the street. One part of

the soldiers passed; then followed a richly ornamented kago, surrounded by six men with lances. Behind the kago came a large number of baggage carriers, and then an open space. Behind this space came other soldiers. Through this open space Callier tried to pass. I saw a soldier carrying a lance take his arm and turn him off. Near the entrance of my house he received a thrust in his side, at which all the spearmen took off the covers from their lances and pikes. I did not hear an order given for the attack. I retreated into my house, as did also the non-commissioned officers. Callier was the last one in the door. Another lance thrust was, however, warded off by one of the other gentlemen, with his hand. I ran into the upper story and saw from the window the Japanese halted before the house. While I descended again to the lower floor, to save myself through a back gate, I saw six or eight Japanese, with lances, standing in the entrance hall. At the same moment I heard the report of rifle shots. I then broke through a bamboo hedge, and saved myself by running across the rice fields to the Dutch consulate.

Of the French non-commissioned officers, only Callier was armed with a sword.

FREDERICK VON FISHER.

### Michael Elman.

On the 4th February, in the afternoon, I saw arrive near my house, situated in the continuation of the main street, a troop of Japanese soldiers. One part of them, escorting a kago, passed, when, at a noise from behind, an officer on horseback turned round, called something, drew his sword, and jumped from his horse. Immediately afterwards the Japanese commenced to fire in the direction of the open place of the foreign concession. I ran to join Messrs. Richter and Nachtigal, and while we were standing at the door of the house, a Japanese made a lance thrust at us. Mr. Nachtigal called out something in Japanese, at which the Japanese turned round and went off.

M. ELMAN.

### Richard Richter.

On the 4th February, at about 2 p. m., I was passing over the open place in the foreign concession to go to the entrance of the main street, when I saw arrive a troop of Japanese soldiers. They cried out "Staniero," and ordered all the Japanese coolies to kneel down. Suddenly all the Japanese looked behind them, in which direction a loud noise was heard, and I profited by this moment to pass the street, immediately before the Japanese troops. After I had passed them the Japanese troops advanced again, and an officer on horseback, apparently the commanding officer, dismounted and turned round. In the same moment all the Japanese called out "Teppo, teppo," and commenced to fire. All the guns were directed towards the open place, none towards me. I did not hear a distinct order given. Some of the Japanese turned round towards me and Mr. Nachtigal, before whose house I was standing, and one pointed his spear against us, but when I had put aside a gun Mr. Nachtigal had in his hand, the Japanese retired. I then passed through the house into the open fields to go to my own house, in the corner house of the street. I found three French officers sitting on the roof and not able to get down. Having helped them down, I crossed the street and saw that the Japanese had disappeared.

R. RICHTER.

### August Ferdinand Hermann Friebe.

On the afternoon of the 4th I passed through the street behind the foreign concession, when a troop of Japanese arrived. At their head was a Kago with escort, and then an officer on horseback surrounded by several Yokumins. In consequence of a calling out from behind, the officer turned round and said something to his men, and jumped from the horse and drew his sword. At the same moment the Japanese commenced to fire I ran into my house to get my gun, and ran then in the direction of the open place. The bullets passed over my head and some of them dropped in my immediate neighborhood. I saw an American sailor lying immediately behind me, and turned round to raise him, the Japanese advanced and I fired my gun at them. I do not know if I wounded any one. I then helped to carry the sailor to the custom-house.

HERM. FRIEBE.

### George Nachtigal.

On the afternoon of the 4th I was standing before my house in the main street, when a troop of Japanese arrived. There were about twenty men with swords before a Kago, and a similar number followed it. Then came on horseback a man about thirty-five years old, simply dressed, but looking very proud, surrounded on both sides by about twelve men with lances. When this officer was about eight or ten paces distant from me, the men called out something, at which the officer turned round, jumped off his horse, drew his sword, and said something to those behind him. I supposed this to

have been an order, because at the same moment the Japanese commenced to fire. I believe that they fired at a Frenchman who tried apparently to run towards the French consulate. Some turned round towards my house, at which I turned round and put my hand out to take my revolver; one of the troop then made a thrust with his lance at me and at Mr. Richter, standing on my side. I called out to him, my revolver in my hand, at which he retired and did not further molest us. I tried then to run over the open place, when an American sailor fell about twenty yards behind me, struck by a bullet. I turned round to raise him, but at the same moment the Japanese came running towards me; seeing this I ordered Mr. Friebe, who carried my gun, to fire at them, which he did. The Japanese thereupon stopped. I do not know that any one was wounded, as the gun was only loaded with shot.

Other American sailors then came, and we carried the sailor off. I accompanied them for some distance, and afterwards went with the soldiers during the pursuit of the Japanese.

GEORGE NACHTIGAL.

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No. 9.

*Statement of E. Martin and Fortant and Collier, three Frenchmen, made to his excellency Mr. Leon Rocher on the 6th of February*, 1868.

We have the honor to inform your excellency of the events which happened on the 4th of February.

At about two p. m. we took a walk (Martin and Fortant) on the road alongside the concession, and in the direction of Hiogo.

Having arrived within about fifty yards of the house occupied by Mr. Lejeune, we saw a troop of Japanese, which had stopped in the street. At the moment we came near them they recommenced their march. At the head of the column we saw a man put his hand on his sword and look at us with a defiant air. We continued our walk, remaining on the right side of the road, and arriving before the house of Mr. Lejeune we stopped to see the train pass.

At this moment Collier came out of the house of Mr. Weingard, where he had gone to buy some tobacco; he remained at the right of the soldiers, marching in the same direction as they did. One of the soldiers pushed him, pronouncing some words in an imperative tone of voice. Collier, not having understood, asked him what he wanted; the soldier only replied by a menacing gesture. Collier marched more rapidly, always in the same direction as the troops. We then heard a noise arise at the further end of the column. Fortant, seeing a soldier take off the cover from his lance, told Collier that a thrust was directed against him. Collier made immediately a jump forward, but could not prevent being touched under the left arm. Feeling himself wounded, he passed through the column to join us. At the moment he arrived near us some lances were directed against him, but Martin warded off a thrust which certainly would have touched Collier in the back.

Being only three against such a numerous troop, it would not have been prudent to resist. Jumping into the first story was therefore for us the work of a moment. Martin and Fortant, their revolvers in their hands, kept watch at the two entrances of the room, while Collier tried to break through the wall to make an opening for us.

We then heard an order given we did not understand, and could see through a little opening on the street that the troops had halted and loaded their rifles. A moment afterwards the report of some shot was heard in the direction of the foreign concession. Collier having broken two small boards that were in the wall, we could mount to the roof by this small opening and see what was going on. The troops had marched on, and were firing in skirmishing order on the foreign concession.

We then hastened to descend, and went towards the consulate to inform your excellency of the events which had happened.

We have the honor to be your obedient servants,

E. MARTIN.
FORTANT.
COLLIER.

ON BOARD THE LAPLACE, *6th February*, 1868.

*Mr. Van Valkenburgh to Mr. Seward.*

No. 10.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 17, 1868.

SIR: On the 8th instant, Hagashi Kuza Saki Noshosho, envoy of his Majesty the Mikado, arrived from the town of Hiogo, some two miles distant from the foreign concession by water, accompanied by six officers and a retinue of about twenty retainers. He was received at the landing near to the custom-house by a guard of French and English marines, the American marines, at that hour, being on duty at the barricades and picketing the posts and streets. The foreign representatives had assembled in a large room in the custom-house, which we had caused to be prepared for the conference. The envoy was dressed in the peculiar costume of the court of the Mikado, and caused to be carried in advance of them the flag of the Mikado. His robe was of rich white flowered silk, his trowsers of the same material but of a silver color, and he wore upon his head the peculiar triangular-shaped black hat tied on with purple cords. We found him a very intelligent and quick man, evidently desirous of cultivating friendly relations with foreign powers, and continuing on the part of the Mikado the same terms heretofore existing between those powers and the Tycoon.

There were present at this interview the representatives of France, Great Britain, Holland, Italy, Prussia, and myself.

The envoy first presented a letter addressed to the representatives, which he caused to be at once translated, and a copy of which I inclose, marked No. 1. This letter announces to the sovereigns of all nations that permission has been granted to the Shogoon (Tycoon) to return the governing power according to his own request; that the Emperor of Japan would henceforward exercise supreme authority, both in regard to the internal and external affairs of the country, and that the title of Emperor should be substituted for that of Tycoon, which has heretofore been used in the treaties.

Under the circumstances I received this announcement as addressed to the President, inasmuch as the Mikado says in it "that it is desirable that the representatives of all the treaty powers should recognize this announcement," and I attribute that reading of the text to the ignorance of the Mikado court as to the form of our government, a point upon which I shall take an early opportunity to give them information. I further understood that no slight was intended, as all the representatives were furnished with an original letter in the same terms.

Our interview then lasted some two hours. We first called the attention of the envoy to the unprovoked and outrageous attack upon the foreign residents on the 4th instant by the retainers of Matsdaira Bezen No Kami, and assured him that our present position was one of self-defense. That Hiogo and Osaka had been opened to foreigners under the treaties heretofore concluded with Japan, and that we were entitled to protection from the Japanese government; that the first thing for the Mikado to do was to give to our government ample reparation for the outrage committed. He then assured us that the Mikado would disapprove of the acts of Bezen, and asked us to reduce those demands to writing, forward them to him on the ensuing day, and he would transmit them at once to Kioto for consideration. He offered at once, if we would withdraw our forces, to assume on the part of the Mikado the entire protection of foreigners here, guaranteeing that there should be no recurrence of similar outrages. He desired us for the present to continue our occupation of the custom-house as our legations, and

promised to appoint superintendents for Hiogo and Kobé in order that business here might at once be resumed. That in a few days a governor, having ample authority, would be appointed for Hiogo, and soon we should be re-established at Osaka.

Our conference was pleasant; the bearing of the envoy was all we could desire; his replies to inquiries prompt and to the point, and we were all very favorably impressed with him.

After the conclusion of this interview the foreign representatives held a consultation and unanimously resolved to ask the naval commanders to withdraw their forces and to resign the protection of the place to the Mikado, and also to give up the steamers which had been seized at our request.

I inclose No. 2, a copy of such resolution as signed by all the representatives, and inclosure No. 3, copy of my letter addressed to Commander Creighton, United States senior naval officer in the port.

On the same afternoon all the foreign sailors and marines were withdrawn, and the envoy substituted in their place the retainers of Satsuma and Choshin Meder, the Mikado flag. In the course of two days thereafter all the guns were removed, the barricades and batteries demolished, foreigners had reinstated themselves in their places of business, and we are now under protection of the Mikado as the head of this government here.

I inclose No. 4, Commander Creighton's answer to my inclosure No. 3. The steamers have all been delivered up to the proper authorities and have left this port.

On the next day, the 9th instant, the foreign representatives again held a conference, at which we unanimously agreed upon the reparation which we should demand from the Mikado in consequence of the attack of the 4th instant, embodied it in a written form, signed by all the representatives, and sent it to the envoy for transmission to Kioto. I inclose No. 5, a copy of this document. On the 14th instant we received through the envoy a communication from Date Iyo No Kami and Saiyo Saki No Chinnagow, announcing that "his Majesty" considers the demands just and reasonable, and that the punishment will be inflicted. I inclose a copy of that communication marked No. 6.

On the 10th instant we had a second interview with the envoy at the custom-house, which passed off as pleasantly as the former one. He assured us that foreigners should be protected in all of the dominions occupied by the Mikado, and that the treaties with foreign powers should be faithfully executed on the part of his government. That the Tycoon was in rebellion against the supreme government, and unless he submitted, force would be used to subjugate him. That he had received and forwarded to Kioto our demand made the day previous, that it was reasonable, and should be replied to immediately. That superintendents should be immediately appointed to conduct the necessary business at Hiogo, until a governor should arrive to relieve them. That in a few days quiet would be restored at Osaka, legations would be provided for us there, and we would be invited to return to that city. He desired, however, that foreigners should be cautious against going to Nishinomia, a little village about nine miles east of here and on the road to Osaka, for the reason that there was encamped a body of Bezen's retainers, and some assault might be made upon them. He also assured us that Nagasaki would pass into the hands of the Mikado without trouble, as the Tycoon's officers had left it.

At the envoy's suggestion, we then appointed a committee of two of

our number, the English and Prussian representatives, to explain to the envoy and furnish him with copies of all the treaties, conventions, and agreements heretofore made by the foreign powers with Japan.

On the 11th instant we received from the envoy a letter announcing the appointment of Mashita Sajremon, Ito Shinsooke, Nakajima Sakootaro, and Krajima Tozo, as superintendents in the custom-house (Kobé) Hiogo; a copy translation of this communication I inclose, marked No. 7.

On the same day (the 11th instant) our committee, Sir Harry S. Parkes and Mr. Van Brandt, held their first conference with the envoy, for the purpose of furnishing to him copies of the several treaties, conventions, and agreements. It was an interesting conference, and I send you, inclosed, marked No. 8, a full and complete memorandum thereof.

On the 14th instant they held their second and last interview with him, the memorandum of which I also inclose, marked No. 9.

On the 13th instant we received from Yoshiakira, at Kioto, a letter announcing the appointment of himself by the Mikado, as chief administrator of foreign affairs, to be assisted by Sanjo Saki No Chinnagow, Higashi Kuze Saki No Shosho, (the envoy,) and Date Iyo No Kami. This is a step in the right direction, and will, I hope, bring us in connection with officers of higher rank than has heretofore been assigned to the discharge of the duties of the foreign affairs. Yoshiakira is a prince of the blood and of the second rank.

I inclose a copy translation of this communication, marked No. 10. It also contains the distinct statement that all engagements are to be observed.

This afternoon, the 17th instant, we had a united conference with the envoy, when he expressed his determination, in consequence of advices received, to return immediately to Kioto. He informed us that in the course of three or four days he should receive news from the Mikado, announcing the time of the execution of Bezen's officer who directed the attack upon the foreigners, and inquired whether the apology of the government should be delivered before or at the time of such execution. We informed him that the acts should be simultaneous. He also informed us that about the first of the month the Mikado had sent two envoys to the Tycoon at Yedo, asking his submission; that they were accompanied by a body of troops, who were to remain in the province of Mino until the determination of the Tycoon was made known to them. If it was opposed to such submission, the troops would press on towards Yedo. That more recently they had send another envoy, but as yet no information had been received from any of them; that the foreign representatives should be immediately informed upon the reception of any news from Yedo or its vicinity, and that the foreign community at Yokohama would not be disturbed by the Mikado's forces.

He left the conference, and went directly by steamer to Osaka, on his way to Kioto.

I inclose, marked No. 11, copy translation of a notice posted in Hiogo and Kobé on the 8th instant, and signed by three or four superintendents appointed at Kobé. It shows the good intentions of these men.

Since the withdrawal of our forces, we have had no disturbance or difficulty, and all now seems quiet at this place.

Trusting that my action will be approved, I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[Translation.]

The Emperor of Japan announces to the sovereigns of all foreign nations, and to their subjects, that permission has been granted to the Shogoon Tokugawa Yoshuiobu to return the governing power in accordance with his own request. Henceforward we shall exercise supreme authority, both in the internal and external affairs of the country. Consequently, the title of Emperor should be substituted for that of Tycoon, which has been hitherto employed in the treaties.

Officers are being appointed by us to conduct foreign affairs. It is desirable that the representatives of all the treaty powers should recognize this announcement.

[L. S.] MUTSUCHITO.

FEBRUARY 3, 1868.

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HIOGO, *February* 8, 1868.

Present the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States of America.

In view of the assurances received this day by the undersigned from Hegashi Kuse, envoy of the Mikado, as to the ability and willingness of the government of the Mikado to insure the protection of the persons and property of all foreign subjects and citizens at this port, and to give effect to the treaties concluded between foreign powers and Japan, consider that they should mark their confidence in these assurances by requesting the respective naval commanders who have been charged with the defense of this port since the attack made upon the foreign community by Japanese on the 4th instant, to withdraw their forces as soon as it may be convenient to them to do so, and also to release all the Japanese steamers detained by authority of the undersigned.

LEON ROCHES.
HARVEY S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VAN BRANDT.
D. DE GRAEFF VON POLSBROEK.

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*Mr. Van Valkenburgh to Commander Creighton.*

No 23.] LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, February* 8, 1868.

SIR: I have the honor to communicate to you a copy of the resolution just arrived at by all the foreign representatives now in Hiogo, after a conference held this afternoon with the minister for foreign affairs appointed by the Mikado, viz:

"HIOGO, *February* 8, 1868.

"Present, the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States of America.

"In view of the assurances received this day by the undersigned from Hegashi Kuse, envoy of the Mikado, as to the ability and willingness of the government of the Mikado to insure the protection of the persons and property of all foreign subjects and citizens at this port, and to give effect to the treaties concluded between foreign powers and Japan, consider that they should mark their confidence in these assurances by requesting the respective naval commanders who have been charged with the defense of this port since the attack made upon the foreign community by the Japanese on the 4th instant, to withdraw their forces as soon as may be convenient to them to do so, and also to release all the Japanese steamers detained by authority of the undersigned.

"LEON ROCHES.
"HARVEY S. PARKES.
"CTE. DE LA TOUR.
"R. B. VAN VALKENBURGH.
"M. VON BRANDT.
"D. DE GRAEFF VON POLSBROEK."

You will please, therefore, consult with the commanding officers of the English and French vessels of war in port who have acted with you, and in concert with them take measures to withdraw the forces on land and to deliver up to the Japanese the steamers which were detained.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander J. B. CREIGHTON,
*Senior United States Naval Officer, Hiogo.*

*Commander Creighton to General Van Valkenburgh.*

UNITED STATES STEAMER ONEIDA, (3d rate,)
*Hiogo, Japan, February* 9, 1868.

SIR: Your communication of the 8th instant is received; all of the United States forces have been withdrawn, and the Japanese steamers are ready to be delivered over when proper authority arrives to receive them.

Very respectfully, your obedient servant,

J. BLAKELY CREIGHTON,
*Commander and Senior United States Officer, Present.*

General R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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HIOGO, *February* 9, 1868.

The undersigned, having yesterday informed his excellency Hegashi Kuse Sakino Soshio, envoy of his Majesty the Mikado, of the treacherous and murderous attack made upon them and the foreign community at this port on the 4th instant by the retainers of Matsdaira Bezen No Kami, while passing through Kobé and the foreign concession, and having been requested by his excellency to state in writing the reparation which they consider should be made for this grave outrage, in order that the same may be laid before his Majesty the Mikado, have now the honor to communicate to his excellency the following formal demands:

1. A full and ample apology for this unprovoked attack upon the lives of the foreign representatives, subjects, and citizens, to be made in writing by the government of his Majesty the Mikado to each of the undersigned, for transmission to their governments, together with a solemn assurance that all the foreigners in the dominions of his Majesty the Mikado shall be protected in future from similar aggressions.

2. The capital punishment of the officer who gave the order to open fire on the representatives and the foreign community generally, the sentence to be carried out in the presence of officers from the different legations.

The undersigned trust that they may soon be informed that the justice of these demands is admitted by the government of his Majesty the Mikado, as it is only by the prompt and signal punishment of the offender that the commission of such lawless violence can be prevented in future and friendly relations be preserved between the governments of the undersigned and that of his Majesty the Mikado.

LEON ROCHES.
HARVEY S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VON BRANDT.
DE GRAEFF VON POLSBROEK.

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[Translation.]

FEBRUARY 14, 1868.

The undersigned has the honor to acknowledge receipt of the dispatch of the six representatives, dated February 9, 1868, and begs to inform them that he has received this morning the inclosed communication, agreeing to the settlement of the affair of Bizen's retainers demanded by them.

The letter containing the apology of our government will be forwarded afterwards.

With respect and consideration,

HEGASHI KUSE SAKI NO SHOSHO.

His Excellency R. B. VAN VALKENBURGH,
*American Minister.*

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[Inclosure.—Translation.]

FEBRUARY 13, 1868.

His Majesty considers that the demands of the foreign representatives for the punishment of the outrage committed by Bezen's retainers are perfectly reasonable, and will inflict that punishment. You will communicate this at once to the foreign representatives.

DATE IYO NO KASIN.
SAIYO SAKI NO CHINNAGOW.

HEGASHI KUTE SAKI NO SHOSHO DONO.

[Translation of a letter received February 11, 1868.]

EIGHTEENTH DAY OF FIRST MONTH,
(*February* 11, 1868.)

I have the honor to communicate the following:

Iwashita Sajiemow, Ito Shinosoke, Nakajima Sakootara, and Tevajima Toza have been appointed to be superintendents in the custom-house of Kobé in Hiogo.

Therefore I beg you will confer with them on all matters concerned until the governor of Hiogo shall be appointed. One or more of these four officers will be on duty in Kobé every day except Sunday.

HEGASHI KUSE SAKI NO SHOSHO DONO.

His Excellency General VAN VALKENBURGH,
*American Minister.*

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HIOGO, *February* 11, 1868.

Present, the representatives of Great Britain and Prussia, and Hegashi Kuse, envoy of his Majesty the Mikado, Iwashita, Ito, and Nakesima; Mr. Sato, of her Britannic Majesty's legation, acting as interpreter.

The general conventions and arrangements concluded since 1860 having been handed over to the Japanese commissioners, and information having been given to them that other arrangements had been concluded also between the foreign governments and their representatives, and the government of the Tycoon, they were told that a formal ratification by the Mikado, *i. e.*, a declaration that the treaties and conventions, &c., would be executed as they stood, was thought necessary by the representatives.

On their reply that the letter of the Mikado already contained such declaration, and that they would therefore prefer if any explanatory letter written by the first minister for foreign affairs was thought sufficient, they named as Prince Minister Ninguadsi No Mia, prince of the Mikado's family, whose authority for that reason could not be doubted, and the representatives then declared that a letter written by this prince, by order of the Mikado, and containing the above mentioned statement, would be regarded as a sufficient explanation of the Mikado's letter.

The Japanese commissioners promised that such a letter as well as another one, containing the appointments for the foreign ministry, should be written and sent immediately.

They then handed to the representatives letters, imforming them that Hegashi Kuse had appointed four officers to act as governors until a governor for Hiogo had been appointed. Being told that one of these officers ought to call on the consuls, and that the written notification to the ministers of the appointment of these acting governors would be thought sufficient, no written notification being necessary to the consuls, they expressed their willingness to act according to these suggestions.

The Japanese commissioners then demanded if it would not be possible for the foreign representatives to forbid foreign merchant vessels to carry troops of the Tycoon to the seat of war. It was replied to them that the foreign representatives would be enabled under the treaties only to forbid to their merchant vessels to visit other ports than those opened by treaty, and that they thought that this measure ought to be sufficient for their purpose, as the Tycoon had only two places, Hakodadi and Yokohama, in his possession, and that it was not likely that he would send troops from one of these ports to the other.

At the reply, however, of the Japanese commissioners that under the treaty the Tycoon would be at liberty to transport his troops in foreign merchant vessels to Hiogo or Nagasaki, as well as to Hakodadi, they were informed that the only way in which their desire could be fulfilled was when the Mikado issued a formal declaration of war against the Tycoon, notified it officially to the foreign representatives, and demanded that no foreign merchant vessels were allowed to carry troops, &c., of the Tycoon, declaring at the same time that he himself would abstain from similar measures.

If such a declaration was officially given to the foreign representatives they then would consult with regard to the steps they might be able to take, it being understood, however, that they would preserve a strict neutrality between the contending parties, having *de facto* relations with both, and that whatever measure might be adopted it would, without distinction, be applied to both parties.

The Japanese commissioners further wished to know if the officers belonging to foreign nations, and now in the service of the Tycoon as naval and military instructors, would be withdrawn from Yedo.

This question having reference only to such nations of which subjects are in the employ of the Tycoon, Sir H. Parker replied that he, for one, should certainly not allow British naval instructors to take an active part in the war, but that the question of withdrawal would have to be considered by him and his colleagues, in a similar position, after they had learned that hostilities were to commence between the Mikado and the Tycoon, no such communication having reached, as yet, the representatives officially.

A number of questions put to the Japanese commissioners with regard to the present state of affairs elicited from them the following information:

The island of Sikouk has submitted to the Mikado, with the exception of Matz Sanniowowani, at Tawamatsu, and Maz Joui Kami, at Matmyama. In Kiusin the princes of Horado, Hizen Tsewusen Satsuma, Omwra, and Hiogo, belong to the Mikado party; the retainers of Konwica have already, long ago, offered their submission. All the other princes in Kiusin are of very little importance, so that there is no resistance to be expected from them.

By news arrived to-day here, by Sho-e-lien, from Nagasaki, of the 6th, the town has already peaceably passed into the hands of Satsuma's, Choshin's, and Tosa's troops, the governor having fled.

The princes of Hiogo and Isekusen hold the two sides of the bay, and a governor will be immediately appointed by the Mikado.

On Niphon there is still fighting going on, in Idsumo, but this province is to be invaded from Irvani, and will have to submit shortly. Kinetoki, capital of Sokai Utanokani, has already been taken without resistance, the garrison having left the castle. The prince of Ki, to whom a messenger has been sent, has declared that he submitted to the Mikado, and had driven away troops of the Tycoon which had come into his province.

The princes of Owari and Echizen, with all their heart, are with the Mikado, the troops of the former one having demanded instantly to be allowed to fight against the Tycoon.

Most of the Daimios west of the Hakone Mountains have submitted to the Mikado's authority, fearing to lose their possession if they resisted, and have joined his army. Such as have made their submission very suddenly are now sent forward as the vanguard of the Mikado's army, (for example, Ikamonnokawri,) so that if they prove traitors they can cause no trouble in the rear of the Mikado's army. Kuwana will remain a stout adherent of the Tycoon, but will be of little importance, as all his dominions are situated westward of the Hakone Mountains, and are, therefore, or will be very soon, in the hands of the Mikado. Aidsu, and many of the fudai Daimios, will probably also stay with the Tycoon, but Kaga may remain neutral, or even join the Mikado's army, he being expected in Kioto.

The Tycoon has left the largest part of his revenues, only about one million of kokus belonging to him, eastward of the Hakone Mountains, but from which he has to pay about eight hundred thousand kokus to Hatamotoo, so that hardly two hundred thousand kokus remain to himself. Most of the bands of Ronins will submit to the orders of the Mikado, but there is one gang, called Sinsogume, at Yedo, which has been for a long time in the service of the Tycoon's government, and will probably remain faithful to him.

It is not the intention of the Mikado to annihilate entirely the Tycoon and his family, but he will have to hand over the governing power, and such part of his revenues as belonged to him at Shogoon, and not personally to him; but, of course, if he resists, he will have to be destroyed entirely.

With regard to the late events, the Japanese commission gave the following explanation:

In ancient times the government was exercised by the Mikados; afterwards they handed it over to functionaries, and finally it passed into the hands of the Shogoons. By right it has always belonged to the Mikados, and has only been exercised by force by the Shogoons. It has been very often tried to render the governing power to the lawful sovereign, but it has never succeeded until now, when we hope to arrive at this long-desired result.

It is by Tosa's arguing, and Satsuma's material pressure, that the Tycoon has been forced to hand over the governing power to the Mikado.

The court of Kioto had agreed that a general council should be called, a thing which happens very often, and is quite customary, and the council was to be opened on the 15th December, 1867, (20th day of eleventh month,) but the Daimios did not come, many of the fudai Daimios refusing to become direct vassals of the Mikado, an edict to this effect having been issued by the imperial court, and protesting against this decision, saying that they preferred to remain faithful to a family from which they had received many favors.

We think it may perhaps have been the intention of the Tycoon to postpone the holding of the council for a long time, to prevent things being settled definitely. Under this persuasion was the *coup d'etat* executed.

The Tycoon was then invited to abdicate his governing power and return to the Mikado such part of his revenue as had been only allotted to him as Tycoon; two million kokus were to be left to him. These propositions he refused to accept, offering his readiness to hand over to the Mikado a yearly income of eight hundred and fifty thousand kokus, and continue the former allowance of one hundred thousand kokus to the imperial court. He further declared that he himself was ready to submit to the orders of the Mikado, but that Aidsu and Kuwana, and some of the fudai Daimios and Hata-

motos, resisted his wishes; he would therefore go to Osaka, dismiss Kuwana and Aidsu into their provinces, and then return to Kioto to await there the decision of the imperial court and general council.

But it appears also that he wished to conserve the right of treating with the foreign powers. We know this by a document one of the Ometske's Tokugana Idsu had brought to the south, and which was communicated to us by Toda Yomatonokami. When Echizen and Owari went to Osaka and invited the Tycoon to return to Kioto, it was with the understanding that Kuwana and Aidsu, being hostile to the proposed arrangement, were to be dismissed into their provinces; we were, therefore, very much astonished, when we found that these, our opponents, formed the vanguard of the Tycoon's army. We received the document setting forth the crimes of the Satsuma faction after the fighting had commenced; it was in reality brought to us on the point of the bayonet.

The so-called constitution is a genuine document, with the exception of the names and articles referring to Katsumia and the foreigners.

This article was proposed from the palace, but immediately rejected by all reasonable men. There are some men in the palace hostile to foreigners, and wishing their expulsion from Japan, between others Ohara, Saisio, and Hase Moto Siosio; but it has been recognized that such wishes are nonsensical, and nobody can speak such things now without being blown up immediately.

The sister of Satsuma is still in Yedo.

We shall hand to the representatives a statement, representing the facts as they have really taken place, and a genuine copy of the constitution.

The residences of the ministers are in preparation at Osaka; we shall inform them as soon as they are ready.

With regard to merchants, they can return immediately to Osaka, but we wish permission to place a guard on or in the vicinity of the settlement, as there are now Tycoon lonius in Osaka, as there were formerly Satsuma, Cho Ronius.

The commissioners were told that the question of residences at Osaka for merchants and consuls would be taken up after the Bezen affair had been settled, after which the conference separated.

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HIOGO KOBÉ, *February* 14, 1868.

Memorandum of an interview between the representatives of Great Britain and Prussia and the Japanese commissioners, Nakasima and Yodai, Mr. Satow, of her Britannic Majesty's legation, acting as interpreter.

The Japanese commissioners handed to the representatives a letter of Hegashi Kuse, inclosing the instructions he had received on the subject of the Bezen affair, stating that the Mikado had recognized the justice of the demands of the foreign representatives, and had ordered the punishment to be awarded to the culpable. The commissioners added, at the same time, that no reply having been received from Bezen, they were unable to state when the execution was to take place, but that, if Bezen submitted, as was very probable, they would be able to give a definite reply in one or two days; whereas, if he resisted, the troops of the Mikado would immediately march against him, and it would then take several days before the question was settled.

The commissioners stated further that, Hegashi Kuse having only received one letter, had only replied by one addressed to all the representatives, but that, as the wish was expressed that a reply should be given to every representative, they would send the letters to-morrow.

To their demand that the execution and the transmission of the apology ought to take place at the same day, or the latter before the former, the representatives, considering that the Japanese might perhaps think that, having tendered the apology, the execution might be put off for some indefinite period, replied that both acts, forming part of the same demand, ought to take place at the same time.

The Japanese commissioners then delivered to the representatives a letter of Migradie No Mia, stating that the Mikado was prepared to execute all the engagements as they stood, and informing the representatives of his appointment to the post of prime minister for foreign affairs, as well as of some other appointments with regard to the foreign ministry.

They further delivered a letter containing the declaration of war against Tokugawa Yoshi Nobu, as well as the demand that the foreign representatives should forbid their merchant vessels from carrying troops of the Tycoon, and the sale of arms, ammunition, and men-of-war.

On the demand of the representatives, if the Mikado would be content if the same rules were applied to him, they replied in the affirmative, stating at the same time that they made this demand especially because they did know that a similar one had been made by the Tycoon's government. They added that the great pressure of business had prevented them from having already furnished their statement with regard to the political facts and the new constitution, but that they would transmit these documents in a few days to the representatives.

At a demand if it would be safe for foreign merchants to return to Osaka, they replied in the affirmative, demanding, however, that time should be left to them till the day after to-morrow, in order to enable them to give a definite answer, adding, at the same time, that the Mikado had already issued a proclamation to all the Daimios, stating that he would observe the treaties, and that foreigners ought to be treated, accordingly, with politeness.

They further transmitted the other originals of the Mikado's letter of the 3d instant.

After the representatives had expressed to the Japanese commissioners their high sense of the zeal and energy shown by them, the conference separated.

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[Translation.]

FEBRUARY 13, 1868.

The Emperor having assumed to himself the treaty-making power, I have received his mandate that all the engagements hitherto existing are to be observed. I have been appointed chief administrator of foreign affairs, and Sanjo Saki No Chinnagow, Hegashi Knse Saki No Shosho, and Date Iyo No Kami, assist me. I beg to communicate this for your information.

YOSHIAKIRA NIHON SHUINO,
*Prince of the blood, second rank.*

His Excellency R. B. VAN VALKENBURGH,
*American Minister.*

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[Translation of a notice posted in Hiogo and Kobé on the 8th day of February, 1868.]

FIFTEENTH DAY OF FIRST MONTH,
*(February* 8, 1868.)

The envoy of the Mikado has been sent to announce to the ministers of foreign nations that the former treaties shall be preserved without any alterations. Therefore we proclaim that no one shall behave improperly towards foreigners. On the other hand, when foreigners behave improperly towards Japanese subjects, it shall be reported to the office of the Japanese authorities. In due time further proclamation will be issued. This proclamation is made in order that the magistrate of Kobé may inform those principally concerned, that they may give it an obedience. The office of the Japanese authorities will be temporarily at the houjin, (hotel.)

Satsuma and Choshin have been authorized to restore order among the inhabitants of Kobé in the port of Hiogo. Therefore we order the naunshi and shoya (the head men of a village or street) of the town to inform the inhabitants of the villages, as well as those of the town, to carry on their respective business without any fear of interference.

IWASHITA SAJIEMON.
TERAGIMA TOSA.
ITO SHINRE SOOKE.

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## *Mr. Van Valkenburgh to Mr. Seward.*

[Extract.]

No. 11.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 18, 1868.

SIR: I have the honor to inform you that M. Leon Roches, the minister of his Majesty the Emperor of France, on the 9th instant, suddenly announced his intention of leaving Japan, and returning to his country upon permission he had some time since received from his government. He sailed on the same evening in the Laplace, for Yokohama, on his way home, leaving Baron Brin as chargé d'affaires *ad interim*.

His last official act here was the uniting in the demand made for reparation for the attack on the foreign community, on the 4th instant, which he signed previous to his departure.

In announcing to his colleagues this intention, which surprised us all, he remarked that the reasons were personal to himself; that he had been a warm supporter of the Tycoon, and that having been driven from this part of the country, and pronounced in rebellion by the Mikado, he felt it his duty to return to France and make his explanations to his government in person; that in leaving Baron Brin as chargé d'affaires, he gave him instructions to act in concert with his colleagues, and that our conferences hereafter would be as unanimous as heretofore.

* * * * * * * * *

Our official and personal relations had been pleasant, and in no one instance that I am aware of did he fail to unite with his colleagues in those resolutions which we deemed to be just and necessary.

Two days before his departure he furnished to each of his colleagues a memorandum of his views of the situation of affairs in Japan, a copy translation of which I inclose, marked No. 1.

He undoubtedly desired to sustain the Tycoon, but since the demand made by the foreign powers for the ratification of the treaties by the Mikado, and their ratification by him in 1865, we have certainly recognized his supreme authority, and held the Tycoon only as subordinate. We cannot close our eyes to the fact which is now well understood, that the Tycoon was the creature of the Mikado, and subject to his orders, receiving from him his position and power, and subsequently resigning that position and power to him. I believe we have nothing politically to do with the several Daimios of the country, but must look to the government.

I believe, also, that it would be impolitic to ask for the opening of more new ports at present. We may be asked to accept them. It may, and probably will be necessary, under the circumstances, the difficulties by which we are at present surrounded. The trouble of protecting our countrymen in the midst of a war, the duration of which it is now impossible to tell, to postpone the opening of Yedo and Ne-egata for a time, the advent of foreigners at these places, in the present excited and disturbed state of affairs, would but complicate our troubles.

To the conclusion of this memorandum I assent, and have acted upon it, providing only for the security of our rights and interests under the treaties, holding communication with the government *de facto*, at the open ports, and observing so far as is possible the same rules that would be observed in any other country.

This statement upon the part of Mr. Roches was elicited by the production by the Prussian chargé d'affaires, Mr. Von Brandt, at our conference on the 6th instant, of a paper, a copy of which I inclose marked No. 2.

This paper, however, was not signed by the representatives, although we all assented to the general principles and conditions therein contained, and have unitedly acted upon them since.

I inclose, marked No. 3, Mr. Roches's letter addressed to me announcing the appointment of Baron Brin; No. 4, copy of his instructions left with the baron as chargé d'affaires *ad interim;* and No. 5, copy of my letter in answer to such communication.

I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Memorandum addressed to his honorable colleagues by Mr. Leon Roches, minister of France in Japan.*

After the events which have happened under our eyes, there is every reason to examine, first, what is at this moment the political situation of Japan; second, what position has been created by these events to the foreign powers represented in Japan; and third, what conduct they may and ought to hold. It is with the intention of helping to throw some light on these questions that the undersigned has the honor to address to his honorable colleagues an official document in which he expresses his personal opinion.

ACTUAL SITUATION.

The troops of the Tycoon have been defeated. After what has happened, the government of this prince does not appear to be in a situation to resist the violent attack which has forced it to evacuate Osaka in haste. This government is withdrawing itself into another part of Japan, to Yedo, seat of the power of the Tycoon, the only one which foreigners have known regularly till now. As far as we know, the attack in question comes from some Daimios, known by their hostility towards the government of the Tycoon. These Daimios pretend to act in the name of the Mikado, the theoretical Emperor of Japan; but we know also that the present war has been preceded by a palace revolution at the court of Kioto, which renders at least doubtful the legitimacy of the motives put forward by them.

We do not know, however, how far the war will be pushed. Will the Quanto be invaded and the Tycoon deprived of his own dominions and his capital, or will the war cease for the moment with the advantages already obtained, and not attack the Quanto or Yedo? The future will solve these questions.

The means which remain to the Tycoon appear to be sufficient, if well employed, to defend the Quanto, and it is probable that the prince will content himself to employ them in such defense on account of the little moral solidity which has been shown during these last events by most of the men who have acted, or ought to have acted, in the name of the government of the Tycoon.

But as war in every country has its vicissitudes, we ought to admit also, especially in a country like this, the possibility of a favorable chance to the Tycoon, and of a favorable turn in the present state of affairs.

SITUATION OF THE FOREIGN POWERS UNDER THE CIRCUMSTANCES.

In the middle of these events what is the position created to the foreign powers admitted into Japan, not to intervene in the interior questions of this country, but to protect the rights and the positions which result to them from treaties relatively old and which nothing regular has either annulled or even put in question?

In the first place, their flags and their countrymen have been obliged, not without losses, to abandon a residence occupied by right, what they would not have done if they had not had serious reasons to suspect the dispositions of the victors with regard to them.

And what confirms this opinion is the incomprehensible outrage of which Hiogo has been the theater in full daylight, in the middle of peace and in presence of the foreign flags.

In the second place, they have passed abruptly from a state of comparative security and prosperity to a situation full of trouble and incertitude. They have lost in reality, by a quarrel which did not concern them, all the guarantees which the solemn engagements of the Tycoon, his power, and his great dominions, whose revenues amounted to eight millions of kokus, afforded to them for the execution of the treaties and the peaceful and progressive extension of the commerce over the whole of Japan.

They have nothing now to look for which could take the place of these guarantees. The Mikado, possessing neither power nor revenues belonging to him, could only offer to us as guarantees for the engagements he would enter into with regard to the foreign powers the dominions of the Daimios, who pretend to form a government in his name. But these Daimios, one may fairly believe, who have acted together to overthrow the power of the Tycoon, will refuse to accept a responsibility which would engage them personally and impose upon them the charge of solidarity. But without such responsibility and solidarity clearly established, one would search in vain what guarantees and what pledge the new state of things could offer; and admitting even that the Daimios, chiefs of the revolution, consented to devote themselves to this necessity, how much time and how much work would not be necessary to offer to us a pledge as real and as secure as that they have deprived us of.

We would, therefore, have in place of a reality nothing but a shadow of responsibility.

CONDUCT TO BE OBSERVED BY THE REPRESENTATIVES.

It is therefore the duty of the representatives of the foreign powers to examine seriously what conduct they have to observe from this moment as well with regard to the adversaries of the Tycoon as with regard to the Tycoon himself.

What may be the so-called titles or interests of the parties in arms, there can be no doubt that the conflict bears all the characteristic signs of an interior discussion confined to Japan. This present war, therefore, is to be considered as a civil one.

The presence, however, of the foreign flags in the contested territories authorized the representatives to suppose at least that the party hostile to the Tycoon would make known in some direct way to the representatives of these powers their pretensions or their intentions, and that they would especially abstain carefully from every act of a nature to wound the dignity or the interests of these countries.

In the absence of notifications or other measures, the acts of these Daimios ought to have borne a testimony for their characters and for their intentions.

There have, however, no notifications or other steps been made, while on the other side hostile acts and offensive demonstrations have not been wanting. These acts and these demonstrations have perhaps not had for apparent or official authors those who pretend to represent the Mikado, but they have been visibly inspired by them; and they cannot be passed in silence, if one does not admit that there might be, besides the international law and the diplomatic relations, a vague and indefinite sphere where what happens remains without responsibility, and where the parties, legitimate or not, can act freely without rendering an account of their acts, under pretext that there is no official signature attached to what is done. The history of the relations of the foreign powers with the far east abounds with examples absolutely contrary to this theory, which, besides, has never been put forward by any publicist.

This same history proves, on the contrary, that generally it has been preferred to punish indiscriminately rather than to leave an offense unpunished. If, therefore, we only consider the precedents, the adversaries of the Tycoon cannot be considered, for the moment at least, as the representatives of a regular government, and one can only see in what happens the more or less disastrous results of a civil war by which the foreigners have suffered, and of which they have a right to repulse the attacks.

There are certainly examples of relations entered into for the benefit of countrymen with an insurrectional government or a victorious party, but only provisionally, and in so far as such government or party did not declare itself the enemy of the foreigners established peacefully in the country by virtue of anterior conventions.

It would, therefore, only be in consequence of a reparation for the outrages and damages committed, and of a clear and precise declaration putting forward the amicable intentions of the adversaries of the Tycoon; it could only be under these conditions that the representatives of the foreign powers could examine if, and how far, it might be convenient to them to enter into any relations with the adversaries of the Tycoon.

Without the fulfillment of these conditions it appears impossible that these representatives could consent to lend their ears to any proposal, and to see anything else in the adversaries of the government, recognized as such till now, but enemies which, according to common law, in default of a government, the powers ought to restrain themselves and punish with such forces as they have at their disposal.

So much for the present. With regard to the future, there are two cases in which the representatives might and ought perhaps to adopt another line of policy, as that which results from the preceding considerations.

The first of these cases is that in which the chief of the government, recognized till now, renounced officially the character he has expressly declared to conserve with regard to the foreigners.

The second would be that when by inexcusable facts, such as attest a revolution or a change of dynasty accepted by an entire country, the representatives were brought to see that, in fact, the government of the Tycoon had ceased to exist, at least so far as the relations and the interests of the foreigners in this country are regarded. In the first of these cases, the conduct to be observed by the representatives would be perfectly clear, and it does therefore not appear necessary, for the present, to take it into consideration.

The second, on the contrary, gives sufficient matter for discussion, because, although precise in theory, it happens rarely in practice to be exactly realized. This case ought to be especially examined in a country relatively little known, and where the first manifestation of the national will, which prepared itself under the eyes of the foreigners, has been suddenly prevented by force. The representatives had been officially informed by the government of the Tycoon that a council of Daimios, called together in the regular way, was to be held at Kioto, and they could, in the absence of any other known and authorized organ of the national will, consider this council as representing sufficiently this will in Japan.

They have learned since for what reasons this council has not taken place.

From between the Daimios few had, it is true, acted in conformity with their words,

and lent the assistance they had promised to the Tycoon, but the majority had protested against what had been done at Kioto by ruse and by violence, and therefore the representatives are authorized to say that the present coalition bears not the character of a national manifestation.

Therefore, not only has the nation, as far as such an expression may be used in Japan, not pronounced itself either for or against the Tycoon, but one could not even say that it had abstained itself, because the occasion to do so or to pronounce itself has been taken from it.

What way remains, therefore, to the foreigners to discern on which side the nation is? None which would not be suspected of a preconceived notion or of private motives.

If the foreigners were in Japan without rights or interests, simple lookers-on in the strife, and protected against all consequences which it may have, they might perhaps await what was called in ancient times the judgment of God, and recognize the right where the force was.

But even in abstaining themselves from any interference in the strife of parties they cannot abstain themselves from having an opinion on the theoretical value of each of the parties, if it were only for the reason that they are accredited with one of them, and that they have to watch over interests which every party may compromise or serve.

It is, therefore, on the field of positive facts and diplomatic stipulations rather than in discussions on the historical right, particularly in Japan, that they can discern the road to follow at this moment.

Which, then, is the inference which can be drawn from these two trains of ideas?

The facts teach us that Japan, taken all together, is so little prepared for the introduction of foreigners, that even under a friendly government, recent proofs of hostility, or rather of hatred, have produced themselves against foreigners. Considering the spirit reigning in the rabble of certain large towns and the situation itself of the towns of Osaka and Yedo, one would be led to suppose that the moment had not yet come to penetrate into them as into places perfectly secure.

Nevertheless at the special demand of the foreigners have these towns either been opened or will be opened, and one can even prove that on the part of a certain number of European merchants the desire exists to see new ports opened in the dominions of some Daimios. But it is not the duty of the representatives to ask themselves if it be to-day in the interest of the foreigners, and in the interest or in the means of their respective governments, still to augment the number of the open towns; to hazard themselves into other territories; to have to do with many princes instead of with one; to multiply their naval stations and the consular posts; to offer, in one word, more opportunity for the ill-feeling to show itself, and more occasion for difficulties.

Why should we give the Daimios credit for more loyalty, more sincere amity, a larger understanding or a more open one to progress, than the present Tycoon has shown? This prince was, so it is said, unable to protect sufficiently the foreigners in his dominions, and therefore cannot be recognized as the real sovereign of Japan. But who will be it more than he is? And what guarantee does exist that what he has not been able to do others will do and can do? Do we not know, on the contrary, that most of the insults and attacks of which the foreigners have been the victims, have had for authors the great and small adversaries of the Tycoon; that it were precisely the liberties and franchises of the Daimios which prevented the Tycoon from punishing acts he nevertheless had to pay for very dearly?

Do we ignore that these attacks, some of them at least, may have been made less with the intention to murder a foreigner, than to create difficulties between the Tycoon and the foreigners? If to-day, in consequence of the present events, the adversaries of the government offer to us, and if we agree to establish ourselves in new towns and provinces, will we find there more security than in the possessions of the Tycoon? It would be at least singular to pretend that each of these Daimios would be in his possessions a better protector than the Tycoon in his possessions, and that the same princes by which the attacks and insults were directed against us will be for us, when we are with them, sincere and sufficient protectors. They would have selected at least quite novel means to attract us to them, and means, until now, little used in human affairs.

Considered from this point of view, the question only offers apprehensions, or at least incertitudes, and it is rather probable that the foreigners which have come to Japan to transact commercial affairs peacefully would bitterly regret to have risked themselves outside the known dominions. To push still further the consequence of such a decision, if it was taken, no clear-sighted Japanese would hesitate to believe that it was precisely to divide still more their country and to search for an opportunity to take possession of some part of it, by the aid of inevitable difficulties, that the foreigners had so acted. Such would be in every probability, in the nearest future, the consequence of such a resolution.

But it cannot be supposed that such be the intention of any of the powers represented in Japan, because such a way of acting, in itself little honorable, would be contrary to all declarations made till now, and would provoke immediately from the other powers just reclamations, or analogous proceedings. Japan would be submitted but to more

than one power, which instead of acting together, as they have done till now, for the general benefit of the country, and the progress profitable to all, would only occupy themselves with watching and restraining each other.

But as it is not possible, to repeat it once more, to suppose such designs to any one of the powers, it remains only to hold on provisionally to the existing treaties, save to draw from the events such advantages as the circumstances will allow, and as might be obtained together by the powers for the common benefit.

So one is brought back to the daylight of the diplomatic dominion, and to the logic of the clear situation.

The foreigners exist in Japan by virtue of international conventions, which have been more than once amply and sincerely confirmed by the government with which they had been concluded, and especially by the present Tycoon. The representatives of the powers have solemnly recognized the loyalty of this prince and the spirit which his government brought to the execution of these treaties. The Tycoon has neither renounced to govern nor to execute the treaties. Far from this, one could rather believe that he would be ready to extend them, and to put himself at the head of the foreign party.

And then in the part of Japan which will obey the authority of the Tycoon, the foreigners would be certain, without it being necessary to make new stipulations, to find complete security.

Are we assured of the same advantages with the adversaries of the Tycoon?

It results evidently from what precedes, that it would be hazardous to have faith in the first declarations which they certainly will not fail to make to us.

En resumé, therefore, and for the moment the right and the duty of the powers appear to be *exclusively* to provide, if necessary by force, for the security of the foreigners, and for the mainteuance of the treaties, without changing anything in the diplomatic situation, until the events have by themselves and without any intervention, either open or secret, disengaged the representatives from the obligations they would observe in every other country, and from which they cannot depart here without causing serious damages to the honor and perhaps to the interest of the country which every one of them represent.

LEON ROCHES.

KOBÉ, *February* 6, 1868.

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HIOGO, *February* 6, 1868.

Since the abandonment of the cattle at Osaka by the Tycoon, and the reception from his ministers of the communication dated 30th January, 1868, the undersigned have no knowledge of the existence of a general government in Japan.

The government of the Tycoon, which appeared able to give some guarantees for the faithful execution of the treaties, and to which for this reason the undersigned have always given their moral support, has broken down in the course of a few days, and the open ports of Osaka and Hiogo have been abandoned by the troops and officials of the heretofore so-called government, while the apparently victorious party has not yet thought fit to communicate with the foreign representatives.

The undersigned, therefore, think it their duty to lay down in a few words the principles by which their future action will be guided. They wish to preserve a perfect and faithful neutrality between the contending parties, concentrating all their efforts upon the protection of the lives and interests of their countrymen. They will neither treat with any single prince or coalition, nor support the former Tycoon against his enemies, but will only enter into communication with the Mikado or such *de facto* governments as hold any of the open ports. They agree between themselves not to accept any communication from any of the contending parties not addressed to all the foreign representatives, or to negotiate separately with them, but to act conjointly for the best of the general and common interests they represent.

The bases on which they will enter into communication with such party as may offer sufficient guarantees to them for the execution of its engagements are—

1st. The full and unreserved recognition of all treaties, conventions, and agreements concluded between their respective governments, or their representatives, and the government of the Tycoon up to this day.

2d. A reliable guarantee for the execution of the stipulations contained in such treaties, &c., and for the safety of the lives and property of their countrymen, as well as for the re-establishment and protection of their commercial interests.

3d. Full and ample satisfaction for the outrage committed on the 4th of February, 1868, by Japanese troops at Kobé, and a guarantee that no similar outrage shall hereafter be committed.

NOTE.—This memorandum was not signed, but the general principles and conditions were assented to by all the representatives, and have in a great measure governed our subsequent action.
FEBRUARY 18.

*M. Roches to Mr. Van Valkenburgh.*

[Translation.]

(KOBÉ,) HIOGO, *February* 9, 1868.

MY DEAR COLLEAGUE: I have the honor to inform you that I leave to the Baron Brin, attaché of the legation of France in Japan, the duty of representing France after my departure, in the quality of chargé d'affaires *ad interim*.

I communicate to you at the same time the conditions under which this mandate is confided to the Baron Brin.

I am happy, in parting, to hope that the Baron Brin will find with you the help and cordial sympathy which I ask from you for him, and which has rendered to me personally so precious the relations I have had the pleasure to maintain with you.

Receive, sir, and dear colleague, the assurances of my high consideration.

LEON ROCHES.

General VAN VALKENBURGH,
*Minister of the United States of America in Japan.*

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[Translation.]

*Copy of instructions to Baron Brin, attaché of the legation of France in Japan, at Hiogo.*

HIOGO, *February* 9, 1868.

SIR: I have the honor to inform you that in consequence of the gravity of the circumstances, and the particular nature of events we have witnessed, I believe that I ought not to leave to any one the duty of giving the necessary information to my government. I go, to this effect, to Yokohama, and leave to you, in the quality of chargé d'affaires *ad interim*, the care of representing France in Japan.

The line of conduct you will have to follow, until you will have received other instructions, confines itself to the protection of the naval and national interests of France, and to agree to the decisions which will be taken conjointly, by the representatives of foreign powers, in order to maintain in fact and in appearance the mutual understanding of such representatives, which has already produced and will produce such happy results.

I am convinced that you will find with my colleagues the most complete and cordial help to facilitate the accomplishment of the mission I confide to you.

I transmit to every one of my colleagues a copy of the present instructions, which, if necessary, will serve to accredit you near the government which will be recognized *de facto*, in that part of Japan where the interests of our countrymen are already engaged.

Receive, sir, the assurance of my very distinguished consideration,

LEON ROCHES,
*The Minister of France in Japan.*

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*Mr. Van Valkenburgh to M. Roches.*

No. 27.] LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, February* 9, 1868.

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your communication, in which you inform me that you leave Baron Brin as chargé d'affaires *ad interim*, as well as a copy of the instructions you have been pleased to give him.

While I deeply regret by your departure the sundering of the pleasant official and personal relations which have existed between us while in Japan, I assure you that nothing shall be wanting upon my part to make those relations equally friendly and cordial with the Baron.

I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of United States.*

His Excellency M. LEON ROCHES,
*Minister Plenipotentiary, &c., &c., &c.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 12.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 24, 1868.

SIR: I have the honor to inform you that on the 14th instant I received from Higashi Kuze Saki No Shosho, the envoy of the Mikado, a communication, stating that in consequence of the revolt of Tokigawa Yoshinobu, (the Tycoon,) a prince of the blood of the second rank had been appointed commander-in chief of the army of execution, and also asking that strict neutrality be observed on the part of citizens of the United States. Similar letters were addressed to each of the foreign representatives at the same time. I inclose a copy, marked No. 1. We immediately held a conference and had the matter under discussion from day to day until the 18th instant, when, after careful examination, we agreed upon the terms of a notice to be issued by us respectively, and bearing date on that day. I inclose, marked No. 2, a printed copy of the one issued, and No. 3, copies of those issued by my colleagues, the representatives of France, Great Britain, Italy, the Netherlands, and Prussia. I also enclose (No. 4) copy of my letter transmitting these notices to the United States consul at Kanagawa, similar letters having been forwarded by me to the vice-consul at Nagasaki and the consular agents at Hiogo and Osaka. I shall also, by the first opportunity, send copies of the notice to the acting consul general at Shanghai, and also to Hakodadi. It is now more than sixteen days since we have heard from Yokohama direct, the opportunities for communication being very few. At that time the Stonewall had not arrived. Whether she has since arrived and been delivered to the Tycoon it is impossible for me to say. I have not been informed of the nature of the instructions given to her commander, and do not know the expected time of arrival. The question of her delivery, under this complication of affairs, has given me great trouble. I am informed by the representative of Great Britain that there are several men-of-war which have been built in England for some of the Daimios, now acting with the Mikado, on their way out for delivery, and one or two of them are almost daily expected. The situation of affairs is such that the delivery of these vessels at this juncture might prolong this unhappy contest to an interminable length, and have the effect to ruin all foreign trade and commerce in this country.

The Tycoon is still strong east of the Hakim Mountains, having Yedo for his capital, and nearly one-half of Japan is said to favor his position and may fight under his banner. He has the Kaio Maro, a beautiful frigate of about 2,500 tons measurement, and carrying twenty-six guns, built expressly for him in Holland, the Fusiyama, built in the United States, and several steam and sailing vessels and gunboats of smaller size. Some of the Daimios, now in alliance with the Mikado, have each several steamers and gunboats, each party being possessed of quite a squadron. I am of the opinion that there is but one vessel in all the squadrons now in these waters that can successfully compete with the Stonewall if she were properly managed, and that vessel is the English iron-clad Ocean. Such, also, is the opinion of all the naval officers with whom I have consulted upon the subject, or heard express an opinion. The Tycoon, with the Stonewall in his possession, would at once command the seas; could blockade successfully Osaka, Hiogo, and Nagasaki, all now in possession of the Mikado, cutting off all communication, and thus prevent the carrying on of any business, and endanger the lives and property of our countrymen.

After mature deliberation and frequent consultation with all my colleagues, who agree with me upon this question, I have written a letter to Mr. Portman, secretary of our legation, who is now at Yokohama, and instructed him, in case the Stonewall should not have been delivered to the Tycoon before the reception of my letter, to prevent such delivery if possible, and to detain her at Yokohama, or send her to Hong Kong for détention until I shall have returned, when I will probably cause her further detention until I have received instructions through you, sir, in regard to her. I believe it to be the only course I can pursue under the circumstances, having due regard for the honor and the interests of our government

I inclose (No. 5) copy of my letter to Mr. Portman upon this subject. I have asked Mr. Portman to communicate to the department such information as he may obtain at Yedo and Yokohama during my absence from those places.

Trusting that my action in this matter will be approved by the President and yourself, and that I shall soon be favored with instructions, I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

FEBRUARY 14, 1868.

SIR: In consequence of the revolt of Tokugawa Yoshinobu, Munragi No Miya, a prince of the blood and of the second rank, has been appointed commander-in chief of the army of execution. The government of the United States being neutral, it is not to be supposed that assistance of any kind will be given to Tokugawa Yoshinobu, either by transporting his troops or those of Daimios acting under his orders, or by importing arms or vessels of war, or by lending the service of American officers or soldiers.

I have the honor to propose to you that you should notify citizens of the United States to this effect, and that your government should take measures in order to the preservation of strict neutrality.

I have the honor to be,

HIGASHI KUZA SAKI NO SHOSHO.

His Excellency R. B. VAN VALKENBURGH,
*American Minister.*

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*Notice.*

Having been officially informed that war exists in Japan between his Majesty the Mikado and the Tycoon, and being desirous of taking measures to secure the observance of a strict neutrality on the part of citizens of the United States of America, I give notice to such citizens that active participation in this war, by entering into service, the sale or charter of vessels of war or transport ships for the transportation of troops, the transportation of troops, military persons, military dispatches, arms, ammunition, or articles contraband of war, to or for either of the contending parties, and similar acts, constitute, according to international law, a breach of neutrality, and may therefore be treated as hostile acts.

Persons in such military service would subject themselves to the rules of war, while ships and other means of conveyance engaged in a breach of neutrality would render themselves liable to capture and confiscation, which rule may extend to cargo belonging to neutrals.

Such breaches would also involve the citizen and vessel in the danger of forfeiting claim to the protection of their government, as well as the rights and privileges granted by the treaty between the United States and Japan.

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, (Kobé,) February* 18, 1868.

*Official notification.*

Whereas the undersigned has been officially informed that hostilities have commenced in this country between his Majesty the Mikado and the Tycoon, and whereas a strict and impartial neutrality should be observed by all British subjects in the contest between the said contending parties, the undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary in Japan, hereby calls upon all subjects of her Majesty to abstain from taking part in any operations of war against either of the contending parties, or in aiding or abetting any person in carrying on war for or against either of the said parties, and to avoid the infringement of any British law or statute made and provided for the purpose of maintaining neutrality in foreign or civil contests, or of the law of nations relating thereto.

The undersigned hereby publishes, for the information of her Majesty's subjects, the following three sections of the statute made and passed in the fifty-ninth year of his Majesty King George III, commonly called the foreign enlistment act; and further warns all subjects of her Majesty that if any one commits any violation or contravention of the law of nations relating to neutral or belligerent rights, as, for example, by entering into the military service of either of the said contending parties in any capacity. or by serving in any capacity on board any ship or vessel of war or transport of or in the service of either of the said contending parties, or by enlisting or engaging in any such service, or by procuring or attempting to procure other persons to do so, or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war or transport by either of the said contending parties, or by carrying officers, soldiers, dispatches, arms, military stores or material, or any article or articles considered and deemed to be contraband of war, according to the law or modern usage of nations, for the use or service of either of the said contending parties, then, and in all such cases, every British subject so offending will incur and be liable to the several penalties and penal consequences imposed or denounced by the statute aforesaid or by the law of nations, and may forfeit all claim to her Majesty's protection, and to the rights and privileges of the treaty concluded between Great Britain and Japan.

Given under my hand, at Hiogo, this 18th day of February, 1868.

HARRY S. PARKES,
*Her Britannic Majesty's Envoy Extraordinary and Minister Plenipontentiary in Japan.*

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*Extract from an act to prevent the enlisting or engaging of his Majesty's subjects to serve in foreign service, and the fitting out or equipping in his Majesty's dominions, vessels for warlike purposes, without his Majesty's license. (3d July, 1819.)*

II. *And be it further declared and enacted,* That if any natural-born subject of his Majesty, his heirs and successors, without the leave or license of his Majesty, his heirs and successors, for that purpose first had and obtained, under the sign manual of his Majesty, his heirs and successors, or signified by order in council, or by proclamation of his Majesty, his heirs or successors, shall take or accept, or shall agree to take or accept, any military commission, or shall otherwise enter into the military service as a commissioned or non-commissioned officer, or shall enlist or enter himself to enlist, or shall agree to enlist or to enter himself to serve as a soldier, or to be employed or to serve in any warlike or military operation in the service of, or for, or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or of any person or persons, exercising, or assuming to exercise the powers of government in or over any foreign country, province, colony, or part of any province or people, either as an officer or soldier, or in any other military capacity; or if any natural-born subject of his Majesty shall, without such leave or license as aforesaid, accept, or agree to take or accept, any commission, warrant, or appointment as an officer, or shall enlist or enter himself, or shall agree to enlist or enter himself to serve as a sailor or marine, or to be employed or engaged, or shall serve in and on board any ship or vessel of war, or in and on board any ship or vessel used or fitted out or equipped, or intended to be used for any warlike purpose in the service of, or for, or under, or in aid of any foreign power, prince, state, potentate, colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people; or if any natural-born subject of his Majesty shall, without such leave and license as aforesaid, engage, contract, or agree to go, or shall go, to any foreign state, country, colony, province, or part of any province, or to any place beyond the seas, with an intent or in order to enlist or enter himself to serve under, or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or in the service of, or for, or under, or in aid of any person or persons exercising, or assuming to exercise the powers of gov-

erniment in or over any foreign country, colony, province, or part of any province or people, either as an officer or a soldier, or in any other military capacity, or as an officer or sailor or marine in any such ship or vessel as aforesaid, although no enlisting money or pay or reward shall have been or shall be in any or either of the cases aforesaid actually paid to, or received by him, or by any person to or for his use or benefit; or if any person whatever, within the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions elsewhere, or in any country, colony, settlement, island, or place belonging to, or subject to his Majesty, shall hire, retain, engage or procure, or shall attempt or endeavor to hire, retain, engage or procure, any person or persons whatever to enlist, or to enter or engage to enlist, or to serve or to be employed in any such service or employment as aforesaid, as an officer, soldier, sailor, or marine, either in land or sea service, for or under, or in aid of any foreign prince, state, potentate, colony, province, or part of any province or people, or for, or under, or in aid of any person or persons exercising or assuming to exercise any powers of government as aforesaid, or to go or to agree to go, or embark from any part of his Majesty's dominions, for the purpose or with intent to be so enlisted, entered, engaged or employed as aforesaid, whether any enlisting money, pay, or reward shall have been, or shall be actually given or received or not—in any or either of such cases every person so offending shall be deemed guilty of a misdemeanor, and upon being convicted thereof, upon any information or indictment, shall be punishable by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

VII. *And be it further enacted*, That if any person within any part of the United Kingdom, or in any part of his Majesty's dominions beyond the seas, shall, without the leave and license of his Majesty for that purpose first had and obtained as aforesaid, equip, furnish, fit out, or arm, or attempt or endeavor to equip, furnish, fit out, or arm, or procure to be equipped, furnished, fitted out, or armed, or shall knowingly aid, assist or be concerned in the equipping, furnishing, fitting out, or arming of any ship or vessel, with intent or in order that such ship or vessel shall be employed in the service of any foreign prince, state, or potentate, or of any foreign colony, province, or part of any province or people, or of any person or persons exercising or assuming to exercise any powers of government in or over any foreign state, colony, province, or part of any province or people, as a transport or storeship, or with intent to cruise or commit hostilities against any prince, state, or potentate, or against the subjects of any prince, state, or potentate, or against the persons exercising or assuming to exercise the powers of government in any colony, province, or part of any province or country, or against the inhabitants of any foreign colony, province, or part of any province or country, with whom his Majesty shall not then be at war, or shall, within the United Kingdom, or any of his Majesty's dominions, or in any settlement, colony, territory, island, or place belonging or subject to his Majesty, issue or deliver any commission for any ship or vessel, to the intent that such ship or vessel shall be employed as aforesaid, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court in which such offender shall be convicted; and every such ship or vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of any such ship or vessel, shall be forfeited; and it shall be lawful for any officer of his Majesty's customs or excise, or any officer of his Majesty's navy who is by law empowered to make seizures for any forfeitures incurred under any of the laws of customs or excise, or the laws of trade and navigation, to seize such ships and vessels aforesaid, and in such places and in such manner in which the officers of his Majesty's customs or excise and the officers of his Majesty's navy are empowered respectively to make seizures under the laws of customs and excise, or under the laws of trade and navigation; and that every such ship and vessel, with the tackle, apparel, and furniture, together with all the materials, arms, ammunition, and stores which may belong to or be on board of such ship or vessel, may be prosecuted and condemned in the like manner and in such courts as ships or vessels may be prosecuted and condemned for any breach of the laws made for the protection of the revenues of customs and excise, or of the laws of trade and navigation.

VIII. *And be it further enacted*, That if any person in any part of the United Kingdom of Great Britain and Ireland, or in any part of his Majesty's dominions beyond the seas, without the leave and license of his Majesty for that purpose, first had and obtained as aforesaid, shall, by adding to the number of the guns of such vessels, or by changing those on board for other guns, or by the addition of any equipment for war, increase or augment, or procure to be increased or augmented, or shall be knowingly concerned in increasing or augmenting the warlike force of any ship or vessel of war, or cruiser, or other armed vessel which at the time of her arrival in any part of the United Kingdom, or any of his Majesty's dominions, was a ship of war, cruiser, or armed vessel in the service of any foreign prince, state, or potentate, or of any person or persons exercising or assuming to exercise any powers of government in or over any colony, province, or part of any province or people belonging to the subjects of any such prince, state, or

potentate, or to the inhabitants of any colony, province, or part of any province or country under the control of any person or persons so exercising or assuming to exercise the powers of government, every such person so offending shall be deemed guilty of a misdemeanor, and shall, upon being convicted thereof upon any information or indictment, be punished by fine and imprisonment, or either of them, at the discretion of the court before which such offender shall be convicted.

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*Notification.*

Learning from official information that there is war in Japan between his Majesty the Mikado and the Tycoon, the undersigned, in order to secure a strict observance of neutrality, notifies all Italian subjects that taking an active part in the war, (though not as combatants,) the sale of war vessels and transports, the transportation of armed men, dispatches, articles contraband of war, in Italian merchant vessels, to any of the contending parties, or for them, constitutes an infraction of neutrality according to the principles of international law, and may be regarded as acts of hostility.

Therefore all persons in military service may be treated according to the rules of war, and vessels and other mediums of transport shall be liable to capture and confiscation, as well as the cargo of neutrals found on board.

Any violation of neutrality by Italian subjects or vessels exposes them to a deprivation of the right to claim the protection of the government of his Majesty the King of Italy, and of the rights and privileges secured to them by the Italian-Japanese treaty.

DE LA TOUR,
*Envoy Extraordinary, &c., of his Majesty the King of Italy.*

HIOGO, *February* 18, 1868.

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*Notification.*

Taking into consideration that war has broken out between the Mikado and the Tycoon of Japan, according to official reports, we hereby warn all subjects of the Netherlands to preserve strict neutrality by not taking part on either side; they are not to sell war vessels or transports; they shall not carry armed men, dispatches, or munitions of war, or any material contraband of war, to either belligerent, such acts constituting a violation of the principles of international law, and are regarded as acts of hostility.

Therefore all persons employed in the military service who may be guilty of a violation of neutrality will be judged by the rules of war, and vessels and other mediums of transport are liable to capture and confiscation, and this penalty may be extended to the cargo of neutrals found on board of such vessels.

All Netherland subjects guilty of violating neutrality in the manner specified shall forfeit the protection of their government, and lose all the rights and privileges assured them by the late treaty of the Netherlands with Japan, and which is now in force.

D. DE GRAEFF VON POLSBROEK,
*Political Agent and Consul General of the Netherlands in Japan.*

HIOGO, *February* 18, 1868.

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*Notification.*

[Translation.]

Considering that, according to official advices, war has broken out in Japan between his Majesty the Mikado and the Tycoon, requiring the observance of strict neutrality, the undersigned, chargé d'affaires of his Majesty the King of Prussia at Japan, calls the attention of the citizens and subjects of Prussia to the fact, that any part taken in the war, even in the capacity of non-combatants, the procuring of vessels of war or of transports, the enlisting or transport of soldiers, dispatches, and articles contraband of war in Prussian merchant vessels for either of the two belligerents, constitute, according to the principles of international law, an infraction of neutrality, and may be regarded as acts of hostility. Persons found in the military service may, therefore, be treated according to the usages of war, whilst the vessels and other means of transportation are exposed to seizure and confiscation, which may also be extended to any cargo on board belonging to neutrals.

Every infraction of neutrality by Prussian subjects and vessels would, moreover,

expose the same to the danger of forfeiting their claim to the protection of the King's government, and to the rights and privileges guaranteed in the treaty between Prussia and Japan.

VON BRANDT,
*The King's Chargé d'Affaires.*

HIOGO, *February* 18, 1868.

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*Notification.*

[Translation.]

Considering that, according to official advices which have been communicated to the representatives of foreign powers, war has broken out between his Majesty the Mikado and the Tycoon, the undersigned, for the purpose of assuring the observance of strict neutrality on the part of French subjects, informs them that all military co-operation of whatever nature it may be, the sale of vessels of war and transports, the transport of soldiers, dispatches, and articles contraband of war by French vessels for or against one of the two belligerent parties, constitutes, according to the rules of international law, an infraction of the laws of neutrality, which would expose the delinquents to the penalties provided by law, and merchant vessels to be seized and their cargoes confiscated; and, moreover, any infraction of neutrality on the part of subjects and of those protected by France would expose them to lose the protection of the government of his imperial Majesty, and deprive them of the rights and privileges which are accorded to them by the Franco-Japanese treaty.

B'ON BRIN,
*The Chargé d'Affaires ad interim.*

HIOGO, (KOBÉ,) *February* 18, 1868.

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LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, February* 19, 1868.

SIR: Having been officially informed of the existence of war in Japan between the Mikado and Tycoon, after a conference and agreement with all my colleagues, the representatives of foreign powers now at this place, I have issued a notice demanding that strict neutrality be observed by all citizens of the United States. Copies of this notice I inclose herewith. You will please cause it to be properly published to such citizens in your jurisdiction, and, so far as is possible, see it carried into effect. I have given similar notice to our consular agents at both Hiogo and Osaka.

I have the honor to be, sir, yours, very respectfully,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

General J. STAHEL,
*United States Consul, Kanagawa.*

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LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, February* 19, 1868.

SIR: Having been officially informed by the Mikado that war exists between him and the Tycoon, in consultation and conjunction with my colleagues, the representatives of France, Great Britain, Holland, Italy, and Prussia, and in consideration of having been requested by both parties to request our countrymen to observe a strict neutrality. I have issued a notice, copy of which I inclose. I have sent to the consul at Yokohama copies of the same notice, with a request to cause it to be published.

Strict neutrality must be observed; and in case the Stonewall should arrive at Yokohama after the receipt by you of this communication, you *will not deliver* her to the Tycoon's government until my return, but take such measures to retain her under the American flag, either at Yokohama or Hong Kong, as you may deem best.

I have the honor to be, sir, your very obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

A. L. C. PORTMAN, Esq.,
*United States Secretary of Legation, Yokohama.*

*Mr. Seward to Mr. Van Valkenburgh.*

No. 45.] DEPARTMENT OF STATE,
*Washington, February* 27, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 13th of December, No. 74, together with its accompaniment. The latter consists of, first, a note without date, which was addressed to you by the Gorogio, by way of explaining the political crisis which has occurred in Japan; second, a copy of a note which was written by one of the ministers for foreign affairs, Ogassawan Iki No Kami, to Sir Harry Parkes, her Majesty's minister at Yedo, and which explains the present position of the Tycoon in regard to foreign intercourse.

Mr. Dix, United States minister at Paris, has recently transmitted to this department a copy of two notes which were addressed to him by the Japanese chargé d'affaires in France, the purport of which notes, differing only in the language of translation, is the same with that of the notes which accompany your dispatch.

We sincerely sympathize with the government and people of Japan; we hold in high consideration the efforts of the Tycoon and his government to maintain public order and to fulfill the national treaties. We shall await with no little solicitude the progress of the measures of restoration and reformation which have been inaugurated. You will assure the government of the continued good-will and esteem of the United States.

Your proceedings in going to Osaka and Hiogo, to be present at the opening of those ports, are approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 13.] LEGATION OF THE UNITED STATES,
*Hiogo, February* 28, 1868.

SIR: I have the honor to transmit to you, marked inclosure No. 1, copy of a memorandum made by all the representatives of foreign powers, and bearing upon my order to Mr. Portman to delay the delivery of the Stonewall. This matter was fully discussed by us in our conference of the 18th instant, at which our notices of neutrality were agreed upon, but the memorandum was only signed to-day.

The position of affairs is, as near as I have been able to learn, as follows: The government of the Mikado is in the hands of Satsuma, Choshui, Tosa, Etchizen, Owari, and several other Daimios. The southern or western portion of the country submit to his authority, while east of the Hakim Mountains the Tycoon's party is strong. It is said to-day that the Tycoon has become "inkio," or retired from power, and that the Prince of Kiusiu has been declared head of the Yokugawa family and successor of the Tycoon.

I have no reason to doubt this report, as it comes very well authenticated from Yedo. What effect this will have upon the present position it is impossible to tell, but I trust through it may be found an end to the war. If the Prince of the Kiusiu submits, all will be well.

Mr. Roches, the late minister of France, yesterday returned to this port with four French vessels of war. What this advent portends I cannot say, as he has been, during his recent absence from here, in consultation with the late Tycoon at Yedo. Perhaps he may again resume his functions as minister, and it may be that he is only *en route* to France.

Yesterday we received from Higashi Kuse Saki No Sho Sho a letter announcing that the punishment of the officer ordering the fire on the foreign residents at this place, on the 4th instant, will be inflicted soon at Hiogo. I inclose a copy, marked No. 2. The apology of the Mikado's government, I presume, will accompany this act.

We believe it will have a good effect upon this government. Since the opening of the country to foreigners the Tycoon has never been able to punish any retainer of a large Daimio who committed an offense against a foreigner, and if now we have found a power equal to such an emergency, it is certainly something new and worth cultivating.

The foreign legations are being prepared for us at Osaka. After receiving the reparation we have demanded we shall probably re-establish ourselves at Osacca for a brief period, and then, I hope, return to Yedo or Yokohama, to watch the progress of affairs. It has been intimated to us that we will be invited to an audience with the Mikado at Kioto, but such invitation has not yet been received.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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HIOGO, *February* 28, 1868.

Present, the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States.

Taking into mature consideration the fact that hostilities have broken out in Japan between his Majesty the Mikado and the Tycoon, and that the only way to preserve a perfect neutrality between the contending parties is to regard them both as belligerents, the undersigned, having learned that vessels of war have been ordered by princes belonging to both the contending parties in Europe as well as in America, and are expected to arrive shortly in Japan, have come to the following conclusions:

1. That the fact of the delivery to either of the contending parties of any vessel of war arriving in the Japanese waters under the flag of one of the above-mentioned powers, and being therefore still under the jurisdiction of such power, would constitute a breach of neutrality.

2. That the possession of such vessel of war might enable either of the contending parties not only to blockade the open ports in Japan, and therefore to completely ruin the foreign commerce in this country, but also to offer formidable opposition to the naval forces of the treaty powers, in these seas, in case any difficulties should happen to arise between either of the belligerents and the treaty powers, a case not unlikely to occur in the present disturbed state of affairs in this country.

3. That, taking into consideration the above-mentioned reasons, the undersigned agree to use severally their utmost endeavors to prevent the delivery to either of the contending parties of vessels of war arriving in these waters; and they further agree that this understanding shall remain in force until they shall receive the instructions of their respective governments on this question, or until the restoration of peace shall render the continuance of such measures unnecessary.

This vote is executed by the undersigned this day in virtue of an understanding already arrived at by them on the 18th instant.

HARRY S. PARKES.
COMTE DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VON BRANDT.
D. DE GRAEFF VON POLSBROECK.
B. BRISE.

[Translation.]

FEBRUARY 26, 1868.

SIR: The Bizen retainer who gave the order to fire against the legations of the treaty powers is at present in the province of Bizen. He will be at once dispatched to Hiogo, and punishment will be inflicted on him.

With respect and consideration,

HIGASHI KUSE SAKI NO SHO SHO.

His Excellency R. B. VAN VALKENBURGH,
*American Minister.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 14.] LEGATION OF THE UNITED STATES,
*Hiogo, March* 1, 1868.

SIR: I had the honor, in my No. 13, to inform you of a rumor that the Tycoon had abdicated, and that the Prince of Kiusiu had been named as his successor as the head of the Tokugawa family; that Mr. Roches, the French minister, had returned to this port, but whether to resume his position or *en route* to France, I was not then aware. On yesterday, the 29th of February, the foreign representatives held a conference, at which he was present. He announced his determination to resume his functions and delay his departure, having received, by the last mail which reached Yokohama during his recent stay there, instructions from his government to remain until his successor arrived. He held conferences with the Tycoon while at Yedo, on the 12th and 19th February. The Tycoon in the first interview declared his intention of submitting to the will of the Mikado; but at the same time denying his right to invade or deprive him of his possessions as the head of the Tokugawa family, insisting upon protecting them to the utmost. At the same time he repeated the history of this struggle as I have attempted to give it in my previous dispatches, and alleged that the Mikado was in duress and not acting of his own free will. On the second interview he informed Mr. Roches that he had abdicated and that the Prince of Kiusiu, a boy of about seventeen years of age, was his successor as head of his family; that he, the late Tycoon, would act for the prince, and be the manager of his affairs; that it was intended only to protect their patrimonial estates and no further than that, to carry on the war against the Mikado.

This abdication was promulgated at Yedo on the 19th February, but as yet we have received no official notice of it. I trust this act, by which Japan is left without a Tycoon, and with but a single government, that of the Mikado, will result in peace; but it is difficult to say, there are so many discordant elements and separate interests, that dissensions and strifes may yet continue.

I inclose, marked No. 1, copy of Mr. Roches' letter, announcing his return, which was received by me late last night.

Yesterday, Date Iyo No Kami, one of the officers charged with the conduct of foreign affairs, arrived from Kioto and paid me a visit of ceremony. He arranged for a business conference for to-day, at one o'clock, with all the foreign representatives, and it is just concluded. He said to us that the officer ordering the fire upon foreigners on the 4th instant had been examined and found guilty of a grievous offense, and been sentenced to death, and that to-morrow had been assigned as the day of execution. That we should also receive to-morrow the apol-

ogy from the Mikado's government. We then arranged to go to Osaka on Thursday, the 5th instant, reopen our legations for a short time, and return to Yokohama. The Costa Rica mail closes in a few moments, and I have no further time to write.

From Nagasaki I hear all is quiet. The new governor of that port, appointed by the Mikado, sails to-morrow for that place. I inclose copies of two official communications received by me yesterday from the United States consul there, marked Nos. 2 and 3.

I have the honor to be, sir, your obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

KOBÉ, *February* 29, 1868.

SIR AND DEAR COLLEAGUE: I had the honor to inform you, by my letter of the ninth February, for what motives I thought it necessary, without separating the action of France from the collective action of the foreign representatives, to leave Hiogo and return to Yokohama.

During the few days that I have passed at Yokohama and at Yedo I have convinced myself that it was more convenient and in the interests of my government that I returned to you and communicated to you the information and impressions I had collected. Acting like this, I had thought that even my absence might be useful for the general interests we represent in Japan, and that to the gratification of giving you this information would be added the one of informing you personally of the state of things, and of one of the phases of our present situation, as well as to recommence with you the community of views and work which has been so happily maintained by the Baron Brin.

I am happy to approve everything which Baron Brin has done in conjunction with you, and to thank you for the help you have lent him during the interview I had charged him with. I have, therefore, only to felicitate myself for having left and having returned.

I am, sir, and dear colleague, with assurances of my consideration,

LEON ROCHES.

His Excellency General VAN VALKENBURGH,
*Minister Resident of the United States of America.*

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No. 22.] UNITED STATES CONSULATE,
*Nagasaki, February* 11, 1868.

SIR: By her Britanic Majesty's ship Adventure, which leaves here very shortly for Hiogo, I hasten to give you some information concerning the situation of affairs at this port.

Considerable excitement has existed here during the last week, in consequence of the news received from Osaka of the defeat of the forces of the Tycoon by those of Satsuma and other princes.

The governor of the port, Kawaza Izu No Kami, finding he had not a sufficient force at his command to hold the place in the event of an attack being made by the men of Satsuma, Tosa, and other Daimios hostile to the Tycoon's government, considered it prudent to resign his authority here, and on the eighth instant left for Yokohama in the steamer Courier, accompanied by all the Yedo officials who had been connected with him in the management of affairs at this port. When on the point of leaving he addressed a letter to each of the consuls of the treaty powers, stating that he had left the city of Nagasaki under the protection of the Princes Hiziu and Chickuzen, according to previous instructions from his government. His hurried departure was doubtless owing to his having received information the night before that his house would be attacked and burnt during the night by a number of Rouins, about eighty, said to be in town. It was also reported that the foreign settlement would probably be attacked and the custom-house and bonded warehouse fired; consequently an armed force from the Shenandoah and two English naval vessels in port was landed for their protection. No attack, however, was made, though we learned on the following day that Tosa's

men took possession of the governor's house during the night, but found the governor had already left. The agents here of different Daimois, fourteen in number, the most prominent ones being Hiziu, Chickuzen, Satsuma, and Tosa, on the day of the governor's departure notified the foreign consuls that pending the appointment of a governor for this port by the Mikado they had assumed control of affairs here, and all business would be transacted by themselves in conjunction with the local officers; and at an interview just had with them they assured us that no action would be taken on their part to endanger the lives and property of foreigners, but that their interests would be properly cared for. I have therefore adopted the course pursued by my colleagues, with the exception of the French consul, who refuses to recognize any one but the Princes of Hiziu and Chickuzen, and recognized these agents as constituting the government *de facto* at this port, and trust that by doing so my action will meet with your approval.

I have the honor to be, sir, your obedient servant,

D. L. MOORE,
*United States Consul.*

Gen. R. B. VAN VALKENBURGH,
*United States Minister Resident in Japan, Hiogo.*

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No. 25.] UNITED STATES CONSULATE,
*Nagasaki, February* 20, 1868.

SIR: I have the honor to acknowledge the receipt, on the twelfth instant, of your dispatches, Nos. 20, 26, and 28, all relating to the disturbances at Osaka, and instructing me how to act should war occur at this port between the contending factions.

My dispatch No. 22, of the eleventh instant, will acquaint you with all that has transpired here up to that date, since when the excitement has entirely subsided; the business of the port, both native and foreign, is being conducted as usual, and foreigners visit the native city without being molested, though the number of two-sworded men in town has considerably increased of late.

Although the princes' agents, now in authority, have so far conducted matters satisfactorily, yet it is very desirable that a governor be sent here as soon as possible, as nearly all of them are largely indebted to foreigners, and as long as they have control here it will be a difficult matter to obtain a seitlement with them. Claims to a considerable amount against several of them were some time ago forwarded by me to the late governor, but they still remain unsettled.

I have not yet been able to communicate with our consul at Hakodadi, as requested by you, no opportunity having lately offered for that port.

I have the honor to be, sir, your obedient servant,

D. L. MOORE,
*United States Vice-Consul.*

Gen. R. B. VAN VALKENBURGH,
*United States Minister Resident in Japan, Hiogo.*

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## *Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, March* 2, 1868.

SIR: Under instructions from Mr. Van Valkenburgh to report to you the intelligence from this part of Japan, I have the honor to transmit herewith, No. 1, copy of the official account of the recent battle between Osaka and Kioto, and No. 2, copy of the Tycoon's letter to the Mikado, intrusted to his commissioner therein referred to.

My notification of the 11th ultimo, copies of which I herewith transmit, was issued on that day. I am unable to say to what extent it has been used by the Tycoon's government, but previous to that date many wealthy merchants and others were leaving Yedo, and it gives me much pleasure to report to you that the exodus has entirely stopped, and that the most perfect tranquillity has apparently been restored.

I am fully aware that it was never contemplated to claim for the principle of exterritoriality such an extended application; but the fact of the

notification having been printed at the government office in Yedo sufficiently shows that it met with the Tycoon's entire concurrence, and it is quite probable also that it will be assented to by those who now oppose his government.

Mr. Van Valkenburgh informed me that he sent you a copy of his instructions to me not to deliver the "Stonewall" to the Tycoon's government.

As war now is reported to exist between the Mikado and Tycoon, the notifications of the foreign representatives enjoin the observance of strict neutrality, and under those circumstances the "Stonewall" will, for the present at least, have to remain under our flag.

The Tycoon persistently denies that there is war between the Mikado and himself, claiming that the Mikado is a minor; that his guardians, appointed by the former Mikado, his father, have been forcibly removed by a coalition of Daimios, of which Satsuma is the chief; that other persons were put in their places by Satsuma, and that it is in the name of the Mikado, and through those persons, that Satsuma and his confederates are now acting.

The issue, therefore, lies not between the Mikado and the Tycoon, but between the Tycoon and Satsuma.

There are many great Daimios who have not yet defined their position, but appear to maintain an armed neutrality. Nearly all of those are well provided with rifles of the latest inventions.

It is well known that in former years the Portuguese exported large quantities of gold from this country. Since their expulsion, now more than two hundred and fifty years ago, this export was stopped, with exceptions so trifling as scarcely to deserve any mention. The mines continued producing, however, and the accumulated product, an extremely small portion of which was only required for the currency, formed a reserve fund to be used by the Shogoon of Japan in a great emergency, such as a foreign war for example.

I have reason to believe that the value of the gold in the hands of the Tycoon, in the shape of bars, is enormous. I can scarcely credit the statement of my informant, as that might appear exaggerated; but assuming that the mines only produced to the value of one million of dollars per annum, it would follow that the Tycoon, who is known to have no debt, would at present command a treasury containing gold and surplus to the amount of at least two hundred and fifty millions of dollars.

The Tycoon will deny his being in possession of so much treasure. Some of the foreign representatives decline to believe in the Tycoon's wealth, but I feel sure that, sooner or later, this will prove to be correct.

From Mr. Van Valkenburgh's dispatches you will have learned that in the early part of the last month no less a personage than the karo, or secretary of the Prince of Bezen, made an indiscriminate attack on the foreign settlement at Kobé, (Hiogo,) and that the foreign representatives, several of whom narrowly escaped being hit by the bullets of his retainers, now demand the punishment of that secretary. Satisfaction for the outrage has been promised by the government of the Mikado, or of those who, according to the Tycoon, claim to act in his name, and in case of refusal of Bezen to surrender his secretary the Mikado is to make war against him.

The Mikado, therefore, is supposed to disagree with Bezen, and it cannot be expected that the Tycoon will indorse him. It would appear, therefore, that the Prince of Bezen, or his secretary, acted on his own responsibility, only obeying his own passionate impulses. There is

nothing to guarantee that other Daimios will not make similar attempts at any moment. To-day the governor of this port issued a notice requesting foreigners not to go on the Tokaido, (the main road to Yedo,) as a train of Mito's men would pass through Kanagawa on their way to that capital. The governor was apprehensive of something happening, and yet the Prince of Mito is the Tycoon's eldest brother.

To-day, again, intelligence was received from Nagasaki that the flags of Satsuma, Choshin, and Toda, over the custom-house, were hauled down, and that that port is now under the protection of the agents of twelve Daimios.

The names of those Daimios are not given, but their act in hauling down those flags may sooner or later form or be twisted into a *casus belli* between them and the three Daimios named. The Tycoon remains inactive, simply organizing his forces in this part of Japan. It is expected that other Daimios will soon quarrel with each other, and before long there may be more than one civil war in Japan, each more or less independent of the other.

In none of these will there be any political principle at stake; they will be simply questions of supremacy of one Daimio over another, and eventually, it is hoped, they may be all reunited in some way under the scepter of the Mikado or Tycoon, or perhaps of both.

In one respect only all agree, according to their professions, and this is unbounded veneration for the Mikado; and yet this veneration did not prevent Choshin from making the attempt, now nearly four years ago, of carrying off the Mikado to his provinces. Satsuma recently was more successful, and the Mikado is now to all intents and purposes the vassal if not the prisoner of that bold and unscrupulous Daimio.

The real sovereign of this country is not the Mikado, who is represented as powerless; neither is it the Tycoon, who is checked. The ruler is the spirit of evil, which appears to be all-powerful, and to control every nobleman in this country.

Mr. Van Valkenburgh has kindly authorized me to explain his views to you, but even if I should enlarge upon them, as they have now been formed, I beg respectfully to submit, with reference to the foregoing, and in view of the utter unreliability of the ruling classes in Japan, that such terrible engines for mischief as iron-clads should never be permitted to get into their possession.

No means should be spared to prevent this, and I hope that you will be pleased to approve of this suggestion and to give it effect.

The Japanese have abundance of treasure and of breech-loading rifles, and entertain no friendly feeling towards foreigners, as the Bezen attack has fully shown. If they are allowed to possess iron-clads, the great western powers may soon find themselves compelled to send home their wooden ships and keep squadrons of superior iron-clads in these seas.

Every fourth man in this country belongs to the two-sworded class, and it is now the highest ambition of nearly all these men to excel as sharpshooters. The military element, always strong, has been overstimulated from many causes—the principal one being the rivalry among Daimios in obtaining the most improved fire-arms. It was never expected that war would break out. So little did the Tycoon himself expect this, that he allowed Satsuma to surround the Mikado's palace at Kioto—a measure which, if in the least foreseen, he could easily have prevented. No one knows now what the next hour may bring forth.

It is well worthy of consideration what the effect may be not only on our relations with this country, but perhaps also with China at a future day, if this nation becomes fully armed, and while the proud

spirit, by which it still appears to be animated, is not friendly towards foreigners, and at the same time so aggressive and so little under control.

The supply of rifles cannot well be stopped; that of iron-clads, I sincerely hope, may not be a difficult matter, as they can only be built in the United States, England, and France.

The Tycoon has again declared his intention to abdicate; it is doubtful whether he will carry out that intention. He may resign as Shogoon, but will undoubtedly insist upon remaining the chief of the Tokugawa family, and this is pretty much the same thing under another name.

I transmit inclosure No. 3, copy of proclamation relating to that intention to abdicate, and establishing representative government of some sort for this country. I do not believe this new move to be a bona fide one, and to deserve much commendation at present.

I also transmit inclosure No. 4, copy of my letter to the Gorogio, on learning the intended abdication of the Tycoon.

The Monocacy and Iroquois are both in port.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 1.

*Official account of the recent action between Kioto and Osaka, by Okubo Sazen No Sho, colonel commanding the advance guard, as given verbatim.*

On the 27th day of the twelfth month (the 21st day of January) the Tycoon received the first intelligence of the occurrences at Yedo on the 19th, the destruction of the Satsuma yaskis, and on the next day he received a report in writing.

Satsuma, who must have received that intelligence at about the same time, suddenly became very imperious and overbearing at Kioto—so much so, that the Mikado at once ordered Owari Daimangong and Matsudaira Okura Tayu (the prince of Etshizen) to proceed to Osaka and summon the Tycoon to Kioto to repress those troubles.

In his interview with the two princes the Tycoon declared his willingness to put down those disturbances by force, if necessary, but, as this might lead to war, he proposed that first the Mikado should himself attempt to get rid of those troublesome Satsuma men.

The Tycoon in the mean time made preparations to go to Kioto in person. A public notice was given at Osaka, and the advance guard was ordered to proceed to Nigo, (the Tycoon's castle at Kioto.) This guard was to consist of no more than two battalions of five hundred men each.

The Tycoon's preparations being completed, Colonel Okubo Sizen No Sho, in command of the advance guard, embarked with his men at 6 o'clock p. m. of the 2d day of the first month, (26th January,) at the Hatshiken Ya, the landing place at Osaka, and at 7 o'clock the next morning he arrived at Yedo. On the same day two other battalions proceeded by land to the temple Kurotani, in the eastern part of the city of Kioto, and they went as far as Fugimi.

Colonel Okubo was accompanied by the Ohometske (herald) Takikawa Harima No Kami as especial commissioner of the Tycoon to the Mikado, who was furnished with a letter from his master, announcing his approach for the purpose of tranquillizing Kioto, and stating that he would cause the arrest of the Satsuma men, and if the Mikado could not act, force would be used if necessary, and in such manner as the Mikado might command. In this document the offenses of Satsuma were recapitulated as far as they were known.

At 11 o'clock a. m., on the third day, Takikawa Karima No Kami, the herald, left Yedo by the Tobakaido and reached the gate of Yodzuzuka at Kioto, a distance of 1¼ ri. (a little over four miles.) An escort of two hundred men was given to Takikawa, and they were only armed with swords. At this gate the herald was informed that he could not pass—neither he nor any armed men of Tokagawa, (Tycoon.)

The gate, he was further told, on behalf of the officer in charge, was held by Choshu men, who acted as assistants of Satsuma, and under instructions from the Mikado.

The herald then said that he could not believe this, as no such instructions had been communicated to him or to Tokugawa, of whose advance guard his escort formed a part, and that this guard was on the way to Nigo castle. The commanding officer of

the gate then repeated that though Choshin men, the port was in fact held by Satsuma, and they were only assisting.

Near Yodzuzuka is a large temple called Tojee—this temple was Satsuma's head-quarters; and Takikawa found himself suddenly surrounded by Satsuma men, dispatched from headquarters, who refused him to pass.

He then returned to Yedo, having no power to force the gate; but some of the officer of his escort remained.

On his return to Yedo both Takikawa and Colonel Okubo reported to Matsudaira Boozen No Kami, commander-in-chief, asking for instructions. The instructions came, "Go and pass, but don't fire first—and not unless attacked."

At 3 o'clock p. m. both left Yedo with the two battalions, and at a distance of about fifteen streets * from that town, Takikawa's officers, who had remained in front of the gate, were met with a message that Satsuma had reported their approach to the Mikado, and desired them to wait until a reply could be received.

The Tycoon's advance guard proceeded and soon met troops, who were challenged. The reply was, "we are Choshin men patrolling." Civilities were interchanged, and the Choshin men were allowed to pass. The advance guard continued to proceed on the tobakaido—a very narrow road of only twelve feet in width—till within three streets of the Korjeda bridge, at a distance from Yedo of one ri. This bridge spans a small stream on which, a little to the westward, the temple of Tojee, Satsuma's headquarters, was situated. On the other side, and commanding the bridge, two guns, with Satsuma's men, could be clearly discerned. On the right was a temple among the trees, and there were two more guns, and among the farm-houses in the rear, troops had been stationed. It was evident that Satsuma's men were in position, and the order was given to halt. The men wished to go on, but he restrained their impatience by reminding them of the instructions not to fire first.

As Takikawa, the herald, on passing in the morning, had found the road clear up to the gate of Yodzuzuka, it was further evident that the Satsuma troops had only been for a couple of hours in their position, and this promptness was conclusive as to Satsuma acting not under orders, but on his own responsibility.

Okubo dispatched an officer to ask for the answer of the Mikado, stating that the attempt to stop Tokugawa's men was unwarrantable. Hossokawa Okin Daibu's men, to the number also of two battalions, had gone up to Kioto that day, and as he had instructions to pass, he would now proceed to do so. The reply was that the Mikado had not yet been heard from, but as soon as his command was received it would be communicated.

Okubo's men were eager for action, and became more so when it was perceived, with the aid of field glasses, that Satsuma's men were carefully taking the range of their guns. The position of Okubo's men was, at this stage, as follows: 1st, two companies of sharpshooters in front; 2d, Colonel Okubo; 3d, four field pieces, two abreast; and 4th, the two battalions of infantry, in line on the narrow tobakaido.

The number and strength of Satsuma's force were unknown.

After a brief pause, eight Satsuma soldiers stepped from the ranks and halted. An officer was sent by Okubo a distance of seventy ken, (four hundred and twenty feet,) to meet them; and he was told that as Satsuma's messenger had not yet returned from the Mikado, the force would not be allowed to pass. Okubo then said: "Since this morning a messenger might have gone and returned from the gosho (Mikado's palace) at least four or five times. He did not believe a messenger had been sent at all. The Mikado has given you no instructions. You do not speak the truth, and I shall now proceed." Okubo's officer was only armed with a sword. The Satsuma men replied: "If you attempt to pass by force, by force you will be resisted." The parleying here terminated, and Okubo's officer returned. The Satsuma men only fell back a distance of eight ken, (forty-eight feet,) wheeled round, cocked their rifles, and fired a volley. This, evidently, was a signal, for immediately fire on all sides was opened by the men of Satsuma. Five cannon balls in less than a minute passed Okubo, thus showing how carefully the range had been taken. On one side of the narrow road on which he found himself with his command, were low lands and rice fields, and on the other side the ground was covered by brushwood and some trees. While exposed to this galling fire, and unable to deploy his men, he gave the order to fall back to a better position, when he found himself suddenly attacked in the rear by the men he had allowed to pass some time before, and who claimed to be Choshumen. But for his two companies of sharpshooters in front, who made excellent practice in picking off the enemy's gunners, his command would well-nigh have been annihilated. His retreat was in good order, and three streets further down he again attempted to take up position. Satsuma's sharpshooters in the meanwhile advanced and engaged; and his own, finding themselves outnumbered, retreated, firing; the loss was great on both sides. Towards midnight Okubo was re-enforced by one hundred and fifty men of the Daimio Kuwana, by whom, principally, the firing was kept up till 2 o'clock in the morning of the fourth day, when, on both sides, the firing slackened. Before daybreak, however, the engagement became more general.

* Thirty-six streets to one ri or Japanese mile.

Re-enforcements must have been received on both sides. The retreat was continued to Yoko Ojimura, where the road was slightly wider, and among the houses and intrenchments hastily thrown up the battle continued the whole day, the enemy remaining under cover of the wood, from which it was found impossible to dislodge them.

The Tycoon's force was too large, and not well handled; the position was bad, and they were constantly in each other's way. At 4 p. m. Okubo was wounded and carried off the field.

Towards evening the enemy advanced in force to the Kobashi bridge of Yedo. It was important to hold that point, and the fighting was very severe. The loss of general officers was very great, and Satsuma's sharpshooters were very numerous.

The Castle of Yedo, near the bridge, was a point of importance, and being the property of Inaba Minonokami, a Tycoon's gnojin, not the slightest doubt was entertained that the Tycoon's commanders would be able to avail themselves of it; as it was, then, they had calculated to make a stand and place their forces in line of battle. But the officers in charge of the castle closed the gates and refused admittance.

The plans being thus entirely disarranged, the position of Yedo became untenable, and the order was given to fall back on Yawata, in the direction of Osaka. There a stand was made, and the Tycoon's forces began to drive back the enemy with every prospect of continued success, when suddenly they were attacked by a heavy fire in the rear. This attack must have proceeded from the troops of Yodo Idsuminokami, supposed to be a warm friend of the Tycoon.

Early in the morning of that day Colonel Okubo with others of the wounded was carried past their camp. They met with great cordiality from them, and in front of the camp were only to be seen two old-fashioned brass six-pounders.

The attack in the rear was with rifled artillery of much heavier caliber. It was soon perceived that the battle was virtually over. There is said to have been no rout, and most of the troops retreated in good order. Firing was still kept up on both sides, but at daybreak of the 6th (the 30th January) the retreat became general, firing desultory. At 2 p. m., to delay the pursuing forces, Hirakata was set on fire; and in the evening of that day the two commanding officers, Matsudaira Bootennokami and Iakinaka Tangonokami, arrived at Osaka.

On the side of the Tycoon were contingents of the following Daimios: Matsu Yama, or Matsudaira Okinokami; Aidzu Yama, or Matsudaira Higonokami; Kuwana Yama, or Matsudaira Etshüinokami; Ogaki Yama, or Toda Awajinokami; Oshi Yama, or Matsudaira Simosanokami; Shimedzu Yama, or Sakai Wutanokami; Yosida Yama, or Matsudaira Giobu Jayu.

On the other side were the larger Daimios of Satsuma, Aki, (Geshü,) Choshü, and some smaller ones.

The Daimios Owari, Etshizen, Hikone, Josa, Higo, (Kitsiü,) Sendai, Inshü, Saga, Kurumé, Iye, and others, had from one to two battalions in Kioto, but remained neutral, for reasons best known to themselves.

The battle began on the 3d, (the 27th January,) in the afternoon, and lasted, with but little intermission during the evening of the 5th, till the morning of the 6th day of the first Japanese month, (the 30th January last.)

The number of men engaged on both sides is not known, neither has it as yet been possible to ascertain the losses in killed, wounded, and missing.

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No. 2.

*To the Mikado:*

Your servant Yoci-nobu (name of Tycoon) respectfully submits that since the 9th day of the last month the imperial pleasure has not been consulted in the affairs of government, but that it is now notorious, even to the humblest person in the empire, that the unscrupulous cunning of Matsudaira Shuri Daibu (Satsuma) exercises full sway.

Disturbances and robberies have been incited and committed by those Satsuma men in Yedo, Nagasaki, Gashu, and Joshu, interrupting communications from east to west, and the empire is in confusion.

Their acts, as set forth in the appended document, are odious in the sight of Heaven and in that of the people. I request, therefore, that an order may be issued delivering those retainers into my hands. If compliance with this order be refused, I shall take measures to execute it.

[Memorandum appended.]

*Aggressive acts of Satsuma's retainers and their accomplices.*

In spite of an order of the Mikado, that matters of importance must be settled after consultation, they, (the Satsuma men,) on the 9th day of the last month, suddenly, and

in contempt of the young sovereign, undertook to alter the policy and to manage things in their own way.

Sesseih Denka, former minister of the late Mikado, and who during the minority of the present sovereign had special powers to act, has now been dismissed and prevented from entering the Mikado's palace.

They treat the Mia and Dosios members of the Mikado's family or household in the most high-handed manner.

Under pretense of guarding the nine gates of the palace, they and others, by exciting the retainers of other Daimios, get up threatening demonstrations with weapons in hand within the precincts of the Mikado's palace, thus showing utter disrespect to the imperial government. This is a great rudeness.

They, (the Satsuma's retainers,) by assembling Ronins in the Satsuma's yaskis in Yedo, instigated the robberies in that city. They fired on a camp of Sakai Sayemonnodjo. They set fire and destroyed, for the sake of plunder, many houses in Yashu and Soshu. Evidence can be produced.

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No. 3.

*Proclamation by the Tycoon, issued by the Gorojin, the 26th day of the 1st month, (19th February, 1868.)*

After mature consideration, Wuyesama (the Tycoon) has formed the intention to abdicate, and to nominate Kee Tshünangong, Prince of Kishü, as his successor.

A petition to this effect having been submitted to the Mikado, the present proclamation is issued under instructions.

PROCLAMATION BY THE TYCOON.

As it is proper to determine the principle of the constitution of Japan with due regard to the wishes of the majority, I have resigned the supreme power to the Mikado's court, and advised that the opinions of all the Daimios should be taken.

On examination of my household affairs, (the administration of Tycoon's territories,) many irregularities may exist, which may dissatisfy the people, and which I therefore greatly deplore.

Hence I intend to establish a Kogijo, (public opinion place of business, Parliament,) and to accept the opinion of the majority.

Any one, therefore, who has an opinion to express, may do so at that place and be free of apprehension.

The 27th day of the 1st month, *(the 20th February*, 1868.)

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*Notification by the Gorogio.*

With reference to the foregoing proclamation by the Tycoon, all officers, whether entitled to go to the audience of the Tycoon or not, their sons and others, Daimios' officers, farmers, merchants, and others, any one who has an opinion to express, will do so in writing at the Kogijo, (Parliament.)

If warranted by circumstances, communications may also be made verbally. Until suitable buildings shall have been selected for the Kogijo, the present Hiogo Sho (the criminal court) will be used for that purpose.

The day of opening of Parliament shall be made known afterwards.

The 27th day of the 1st month, *(the 20th February*, 1868.)

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*Circular by the Gorogio to the officers of the government.*

As soon as the Kogijo (Parliament) shall be established, the chief of each department of the public service will select one of his officers to represent that department.

When a department employs less than five officers, no representative need be sent; and when a department employs many officers, one out of every fifty officers must be sent.

The 27th day of the 1st month, *(the 20th February*, 1868.)

*Notification by the Gorogio.*

As the Kaigi (hall of assembly) will be opened, all superior officers and nobles who have an opinion to express, though they may not be in the service of the government, are hereby invited to come to the castle at Obirma, on the 29th day, at 10 o'clock a. m.

The 27th day of the 1st month, *(the 20th February*, 1868.)

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*Notification.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yedo, February* 11, 1868.

As on the 19th January last the port of Kanagawa was closed by a naval engagement being fought within its treaty limits, and with the view of preventing a repetition of similar infringements of the treaty between the United States and Japan, notice is hereby given to whom it may concern, and for the better observance of strict neutrality by the United States, that any hostile encounter, or even attempt to that effect, within the ten-ri treaty limits of Kanagawa, on the sea or on land, by the forces of either party to the civil war now existing in Japan, will be considered a deliberate infringement of the said treaty, and as such must expect to meet with a decided expression of the displeasure of the United States.

A. L. C. PORTMAN.

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No. 4.

*Mr. Portman to the Gorojin.*

No. 21.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, February* 24, 1868.

I have this day learned that by a recent proclamation his Majesty the Tycoon has announced his intention to abdicate, and to nominate Kee Tshünangong, Dono Prince of Kishu, as his successor. Firmly believing that his Majesty Stotsbashi is the first sovereign of Japan who has adopted a fixed foreign policy—that of promoting friendly intercourse with the treaty powers—and of judiciously encouraging foreign trade so as to render it an active agent in furthering the interests of his people, I do not hesitate to assure your excellencies, as the consistency and wisdom of your government have been fully appreciated, no less than the great difficulties by which your sound and liberal policy has been surrounded, that the abdication of his Majesty the Tycoon, should it unfortunately take effect, will be sincerely regretted by the government of the United States. And I can only hope that your excellencies will soon have it in your power to announce that his Majesty has been able to reconsider his intention, and will remain the chief of the government of Japan.

With respect and esteem,

A. L. C. PORTMAN.

Their Excellencies the GOROJIN, *&c., &c., &c., Yedo.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 24.] LEGATION OF THE UNITED STATES,
*Hiogo, March* 4, 1868.

SIR: In my No. 14, under date of March 1st, I had the honor to inform you that Taki Tensaboro, the officer who ordered the fire upon the foreigners at Hiogo on the 4th February, had been found guilty, and his execution was directed to take place on the next day (March 2) at Hiogo. The culprit was an officer of rank, and in accordance with the laws of Japan was permitted to commit hara-kiri.

On that day two Japanese officers, in accordance with what is under-

stood to be the custom in this country, called upon the representatives unofficially to ask if the man's life could not be spared, and whether we would not request the Mikado to reprieve him. In all cases of sentence of death I am informed this custom prevails throughout the land. We held a conference at once, lasting about four hours, desiring, if possible, to comply with the request of these gentlemen, and ask for a reprieve; but the conclusion arrived at was, that the safety of foreigners in the future would prevent the exercise of such clemency, and we declined to accede to the request. The representatives severally wrote out their conclusions, copies of which I transmit, Nos. 1, 2, 3, 4, 5, and 6.

We were then informed that the execution of the sentence would take place that evening at a temple in Hiogo, and were asked to designate each representative a witness. I accordingly appointed Commander J. Blakely Creighton, of the United States steamship Oneida, the senior naval officer at this port, as such witness from this legation. The execution took place about half past 10 o'clock in the evening, witnessed only by seven foreigners and about an equal number of Japanese officials. It is said to have been a very solemn and impressive scene. I enclose No. 7, copy of Commander Creighton's official report to me of the execution.

We entertain the belief that the punishment of this man will have a salutary effect in preventing similar acts in the future, to some extent at all events, while it satisfies us of the good intentions and power of the Mikado. On the following day (March 3) we received the apology of the government for the outrage, in accordance with our demand, copy of which I inclose, marked No. 8. Inclosed in this communication was the sentence of Taki Tensaboro and also that of Hiki Tatewaki, who seems to have been the chief officer, and who, from not properly enforcing his orders, is placed in arrest. I inclose copy of these sentences marked No. 9.

This difficult question now having been satisfactorily arranged, we propose to reopen for a brief period our legations at Osaka, and then return to Yokohama, where our duties now seem to call us, inasmuch as large bodies of troops are moving in that direction.

Trusting that my action in this matter will be approved, I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

*Opinion of the minister of France on the question whether the foreign representatives shall apply for mercy in favor of Taki Tensaboro, officer of Bizen, who has been sentenced to death by the Mikado for the order given by him to his soldiers to fire on the foreigners at Kobé, on the 4th of February,* 1868.

Sentence having in due form been passed on the officer guilty of the assault of the 4th of February, 1868, it appears to me that the question whether mercy would answer a better purpose than justice was virtually settled by the foreign representatives when, unanimously, they officially demanded, not the trial, but the capital punishment of the criminal.

They all signed this demand. They did not act hastily, nor should they permit a belief to be entertained that they acted hastily. They were not the judges, neither were they personally wounded or offended; but from a political point of view, they clearly appreciated the assault and the absolute necessity for reparation, being convinced, that sound feelings of humanity prescribed the duty to offer to Japan the means

of avoiding the consequences of retaliation, which would have been much more serious. If reparation had been refused, the ministers would certainly not in any measure have held themselves responsible for the consequences of repression by force of arms. Can they, therefore, now hold back from the criminal the capital punishment, which they expressly demanded?

The assault was political and national, inasmuch as it had its origin in popular prejudices or national hatred, and applied to all foreigners indiscriminately. To recede now from their judgment by applying for mercy, would render the ministers responsible for such other acts of violence and assaults which may occur in future and be prompted by the same prejudices, and the ministers would be unable to meet such responsibility from public opinion or their own, because having had it in their power to act when the opportunity was presented they would have failed to do so.

Even if these reasons, which in my opinion are conclusive, did not exist, in view of clemency having been advocated by the government themselves, by whom the criminal has been sentenced in proper form, the foreign ministers, by permitting themselves to be induced to apply for mercy would become liable to the suspicion, which would be little to their honor, of having countenanced a machination agreed upon beforehand, and of having contented themselves with reparation in name only. In a country like this and in the circumstances under which the assault took place, clemency cannot produce the same effect as stern justice. It is, therefore, justice only which can make the dignity of the foreign representatives, and, at the same time, the safety of their countrymen, respected.

Before the duty of protecting those interests every consideration of feeling should vanish, and compared to this duty the life of one man, who moreover was found guilty and has been sentenced by his own sovereign, must be of no account.

LEÓN ROCHER.

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*Memorandum by Sir Harry Parkes on the considerations which prompted him to vote an appeal to mercy should be made in favor of the offender in the Bizen outrage.*

The offender in this case, an officer of rank in the service of the Prince of Bizen, was condemned to death for having ordered an attack to be made upon foreigners generally, as he passed through Kobé at the head of a train of armed men on the 4th ultimo.

The immediate cause of this violence appears to have been that a foreigner crossed the procession through an opening between the bodies of men. The men before whom the foreigner passed used their spears, not only against the latter, whom they stabbed, but also against all the foreigners standing by, whom they pursued into their houses. Not satisfied with this retaliation, the above mentioned officer ordered the leading company of his men, who were armed with revolving rifles, to open fire upon all foreigners then in sight, and who were much exposed to such an attack by being scattered about on the open ground of the foreign concession. As an instance of the unmerciful character of the attack, it may be mentioned, that when two or three of the foreigners, who were flying from the bullets, stopped for a moment to aid an American sailor as he fell, the Japanese riflemen directed their fire upon the party, while engaged in carrying off the wounded man.

In atonement for this outrage the life of the officer who gave the order to fire was demanded by the foreign representatives. With marked promptitude the Mikado's government admitted that the demand was perfectly reasonable, and at once engaged to inflict the punishment named. The officer was arrested, process against him was completed by the 24th February, and on the 29th he arrived at Hiogo in order that the sentence of death might be carried out at the place where the outrage had been committed. The details as to the place and time of execution were communicated to the foreign representatives, who were satisfied of the good faith and the equitable spirit which had animated the action of the Mikado's government in this matter.

At this stage of the proceedings the foreign representatives, influenced chiefly by an intimation that an appeal to the mercy of the Mikado in favor of the prisoner would be gratefully viewed by the Mikado's government, and also in some degree by the views of two of their number, met on the 2d instant to consider whether the case was one in which clemency might advisedly be invoked. After discussion and consideration of the case, which gave all the representatives an opportunity of exchanging opinions and comparing their respective impressions, the question of whether an appeal to mercy should be made was put to the vote, and Sir Harry Parkes gave his voice for the appeal on the following grounds:

"The good faith of the proceedings of the Mikado's government had been established to the satisfaction of the foreign representatives. The offender had been sentenced to death, not upon the demand of the foreign representatives, but because, as stated by the Japanese authorities in communication with the representatives, he had incurred

that penalty according to Japanese law. His offense was probably more attributable to the system of hostility towards foreigners still existing in Japan, than to particular malice on his own part. The manner in which the case had been dealt with by the authorities gave the representatives reason to hope that the efforts of the new government would be directed towards the eradication of this system, which is known to have been fostered by political animosity. To effect this, the unlawfulness of violence towards foreigners, and the certainty of punishment attaching to it, must be made patent to the mind of the two-sworded class throughout Japan. Was the death of this officer, however, indispensable for this purpose, or might not the same effect be produced by some commutation of his punishment and by the publication throughout the country in a durable and conspicuous form of the original sentence, which clearly describes the capital nature of the offense, and its important bearing upon foreign relations, supplemented by the declaration, that in this particular instance life had been granted on an appeal for mercy in favor of the offender being made by the foreign representatives?"

Such a measure, Sir Harry Parkes believed, could be as widely promulgated as the man's death. And in the present state of affairs, at the commencement of a new administration, and of new relations with a party who had hitherto been debarred from communication with foreigners, was calculated, he thought, to have as good an effect in the promotion of the object which all the representatives had in view, as the sterner execution of the law. That object was the security of their countrymen in Japan; but this was to be obtained not only by the terror of punishment, unless the moral sensibilities of the Japanese were placed at a very low ebb, but also by judicious appeal to the friendly sympathies of the people. The present case appeared to be one in which the good effects of clemency might be gained in addition to those that would be secured by the vindication of the law.

In determining whether an appeal in favor of the condemned officer should be made by the foreign representatives, having been put to the vote, two of the foreign representatives expressed themselves for and four against the appeal.

In deference to the views of the majority, and in order to preserve unity in the action of the foreign representatives throughout this case, Sir Harry Parkes acquiesced in the decision which was then taken, to abstain from making any appeal in favor of the condemned, and it was agreed that the representatives should exchange statements of the grounds upon which their respective votes had been formed.

HARRY S. PARKES.

HIOGO, *March* 3, 1868.

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The undersigned, taking into consideration whether, after the respective representatives of the treaty powers having obtained of his Majesty, the Mikado, the condemnation to death of the Kerai of the Prince of Bizen, for the attack committed by that officer on the foreign residents in this place, it would be opportune to address themselves to his Majesty, the Mikado, for obtaining that the sentence of death shall not be executed, but that the culpable shall be punished in another manner.

The undersigned has the honor to observe that the principal reasons which have pushed him to demand the execution of the culpable have been, to prove to the Japanese princes and their officers that they could not, without being punished, attack the lives of the foreigners residing in Japan, and to try whether the government of his Majesty, the Mikado, was strong enough to execute an officer of a prince, who was guilty of such an attack.

The Prince of Bizen having been forced by his Majesty, the Mikado, to deliver up the officer who has committed this violent act, and this officer having been sentenced to death, which sentence will take place this evening in Hiogo, in presence of the secretaries of the respective legations, it has be n sufficiently proved to the princes of Japan that every attack on the foreigners residing in Japan will be punished with capital punishment, and to the respective representatives that the government of his Majesty, the Mikado, is strong enough to pass this sentence on every Japanese official without exception. The undersigned is of opinion that the respective representatives could, without any risk that a similar attack be repeated in future, address themselves to his Majesty, the Mikado, in order that he may grant a reprieve and that such an act of clemency on their part should procure a favorable impression, not only on the government of his Majesty, the Mikado, but on the whole Japanese nation.

The undersigned therefore has the honor to propose to his honorable colleagues that the secretaries of the respective legations shall render themselves to the temple when the execution must take place, and that in presence of the Japanese authorities, who have to be witnesses, they should inform to the culpable that his life is in the hands of the respective representatives, but that they do not desire to take it, and that in consequence thereof they have the intention to address themselves to his Majesty, the

Mikado, in order that he may grant a reprieve of the sentence of death, to which the culpable has been condemned for his unjustifiable attack on the foreign residents in this port.

D. DE GRAEFF VON POLSBROEK,
*H. N. M.'s Political Agent, Consul General.*

HIOGO, *March* 2, 1868.

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[Translation.]

*Opinion of the Count de la Tour, Minister of Italy, at the conference of the 2d of March, 1868.*

LEGATION OF ITALY IN JAPAN, HIOGO, KOBÉ.

The demand for reparation for the assault committed on the 4th February was made after mature deliberation. In my opinion, it was based upon the conviction that a sentence to capital punishment of the officer who gave the order to fire was the just consequence of that aggression, and at the same time the only means to put a stop to the series of assassinations dictated by political motives since the opening of Japan, and which, with rare exceptions, have remained unpunished. The punishment of Taki Tensaboro should show us to what extent it is the intention of the government of the Mikado to insure respect of foreigners, and at the same time make known that the government possess the power to carry out what has been resolved upon.

The Japanese commissioners have asked us whether there was no way to save the life of this man.

They observe that in Europe sometimes manslaughter is not followed by capital punishment; in special reference they mention the case of the Polish student, who fired in the Bois de Boulogne on the Emperor of Russia, and who was not executed. They further say that no foreigner having been killed on the 4th February, public feeling in this country might feel hurt by capital punishment in this case. The first remark requires no further notice. This is a question of legislation, with which the customs and the laws of Japan are unconcerned. The second consideration has already been dimly perceived before sentence was passed, and in my opinion is inadmissible. Though it is true that no one was killed, yet the circumstances under which the assault took place upon peaceable people, unarmed, suddenly attacked, and which attack was kept up against those who with all speed ran away, or those who stopped to carry off the wounded American sailor—those circumstances were such, that all the foreigners who were there might, and it was intended should, have been killed.

I shall not pause to consider the painful impression which this step of the Japanese commissioners at this late hour has caused me, and which might lead to suppose that this sentence was only intended as satisfaction of the demand of the representatives with the conviction underlying it that the sentence would not be carried out.

I think there is only one point to be considered, and that is, whether clemency or capital punishment will insure the most favorable result.

It is my deliberate opinion that clemency would not be comprehended or appreciated at its proper value, but would be considered as an admission of weakness, perhaps of fear, and induce every samurai (two-sworded man) to believe that the life of a foreigner can be taken with impunity; while on the other hand, even if the death of Taki Tensaboro should be followed by any act of special revenge, the exemplary punishment of this officer of rank, and one belonging to a family of distinction, would show to the Daimios the respect to which foreigners are entitled, and the means they possess of obtaining justice.

If the life of man is sacred, and if personally concerned, I should prefer to consult my better feelings; as minister of Italy in Japan, and under circumstances of such importance, I can only look to the safety of Italian subjects and the protection of their persons.

For these reasons, and convinced that clemency would be injurious, I vote for the execution of the sentence as rendered by the Mikado, and admitted by him to be just and according to law.

DE LA TOUR.

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[Translation.]

*Opinion expressed by the Chargé d'Affaires of Prussia at the conference of the 2d March, 1868.*

The arguments of the Japanese commissioners have been of a twofold character. They first attempted to establish, that no one having been killed during the attack on

the 4th February, the people of Japan would not comprehend why the criminal was executed, and they might feel hurt to learn that while no foreigner lost his life, that of a Japanese had been taken. In proof of their argument, and referring to the proceedings in the case of the person who in Paris fired at his Majesty the Emperor of Russia, it is said that in Europe, when no one is killed, the life of the criminal is spared.

The Japanese commissioners further declare, that the man has deserved death; that sentence has been passed, and that they applied to the clemency of the representatives in order to learn whether means could be found to save the life of the criminal.

The first argument requires no refutation. The attack made upon a great number of unarmed and peaceful foreigners is certainly the most serious one that has been committed since the establishment of relations between the treaty powers and Japan, and the fact that by God's mercy no one was killed, should certainly not be admitted in extenuation, as the will to kill unquestionably was not lacking. It should moreover not be forgotten that during the entire period in which this matter has been discussed no expression of regret was tendered to the representatives, neither on behalf of the Prince of Bizen nor of his karo, (secretary,) or the guilty officer.

The second argument is simply an appeal to our feelings of humanity, and the minister of England has correctly summed up the impression of the conference, when he stated that we had met to decide whether clemency or strict justice would produce the better effect and protect more efficiently in the future the lives of our countrymen in Japan.

I consider the crime a political one, and one flowing from the estimate of worthlessness of the life of a foreigner, and from the almost certainty of impunity for an attack against foreigners, and this, in my opinion, has been the case of all murders for political reasons in Japan, and which the inefficiency of the laws and of the police in this country has unfortunately countenanced.

Six months ago, on the occasion of the attack on my secretary, Mr. Schnell, I had the honor to state to my colleagues, as I officially stated to the government of the Tycoon, that I saw of only one way of putting a stop to such murders and repeated attacks, and that was to demand the capital punishment of any samurai (two-sworded man) who, without just provocation, should draw his sword on a Prussian subject.

Recent events have not changed my opinions. However I may individually regret my inability to save the life of a man, I feel the more convinced that our clemency would not be appreciated, but would rather be mistaken for an admission of weakness or fear.

I regret to say that I am far from believing that the execution of this criminal will put a stop to murder in Japan; it is quite possible that some may be perpetrated by the relatives or the friends of the criminal from motives of personal revenge, but it is my opinion that the execution of the criminal, who is of high rank, and who evidently belongs to a good family, will produce an excellent and wholesome effect on the people of Japan.

It will prove, at all events, to Daimios, to superior officers and to the armed classes generally, that whoever attacks a foreigner does so at the risk of his life—that punishment will be demanded; that in Japan a power exists which can decree such punishment, and that the head of such a person, however high it may be placed, will fall in atonement of the crime.

The fact that the attack was made by a Daimio's train, and the plea that foreigners had broken through the ranks, is for me an additional reason to insist upon capital punishment. This is the second time that, for a similar reason, a Daimio's train murders inoffensive foreigners by the sword or with muskets. On the first occasion the attack on Messrs. Richardson, Marshall and others, remained unpunished, in so far at least that both the man who gave the order and those who carried it out escaped the deserved chastisement. Would it not be well, therefore, to prove to the Daimios and their Karos, that if we are unable to protect our countrymen from the attacks of common assassins, we are quite able to protect them in cases as now in question, and that an infringement of Japanese ceremonial shall no longer be regarded as excusing the order to murder foreign subjects.

In conclusion, and though this consideration is far from exercising a decided influence on my opinion, I cannot help believing, particularly after the request which has so unexpectedly been made to us, that the grant of mercy would have a very bad effect on our relations with the government of the Mikado, which has furnished us brilliant evidence of their energy and power. Neither myself, nor, I believe, the majority of foreigners and Japanese, could well escape the instinctive self-suggestion that sentence has been passed only to meet our demands, and not as a punishment justly due; that it was in fact a result of political circumstances, a compliance in an emergency, rather than the expression of the will and the power of the Mikado to cause the lives of foreigners to be respected.

Clemency would thus have a worse effect; it would completely destroy the respect and the consideration which are our only means of legitimate influence in this country,

and the steps we have taken for the protection of our countrymen would become baseness.

In view of the foregoing considerations, I believe it to be my duty to vote for the execution of the sentence passed by the Mikado, and admitted by him to be just and reasonable.

VON BRANDT.

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Taki Tensaboro, a retainer of Hiki Tatewaki, a retainer of Matsdaira Bizennokami, being an officer in command of armed troops in the service of his Majesty the Mikado of Japan, such detachment of troops numbering not less than one hundred and fifty, while marching through the foreign concession at Hiogo (Kobé) on the 4th day of February, 1868, wantonly and without provocation dismounted from his horse, and ordered his troops to fire with their rifles upon the unarmed, defenceless, and unsuspecting foreigners then in the streets, and upon the concession ground.

The order was immmediately obeyed, and without warning a rapid fire was opened by his men upon all the foreign residents and representatives, nearly fifty of whom were exposed to this savage and lawless attack for the space of five minutes and more. Two French marines were wounded by spears in the hands of Japanese, while an American sailor was struck down in the act of running from them, by a rifle bullet; two citizens, in attempting to remove this wounded man, were deliberately fired at several times at short range.

This was an indignity offered to the foreign powers, whose flags were floating in plain view, and at which some of the balls were evidently directed. It was a breach of international law—an infringement of the most sacred treaty obligations, first guaranteed by the Tycoon and then ratified by the Mikado, and a violation of the personal rights and privileges of those foreign representatives, citizens, and subjects who were exposed upon this occasion to the murderous attack.

All this was done by an officer in the service of the Mikado, the supreme power in Japan.

After mature deliberation, the foreign representatives unanimously demanded a reparation, which they believed to be only commensurate with the acts: an ample apology from the government of the Mikado to the respective governments who had thus been outraged, and the capital punishment of the officer who had directed it.

This demand was not made in a vindictive spirit, but with the object of impressing upon the Mikado, his government, and the whole people of Japan, the fact that it is no trifling matter to violate treaty obligations and international law, and that they could not with impunity thus insult the governments which were here represented.

The Mikado answered that the demand was reasonable and should be carried out.

No extenuating circumstances have been offered upon the part of Taki Zensaboro—he has expressed no regrets and tendered no apology.

The offender was ordered to Kioto, was judicially tried according to the laws of Japan, and by a court having competent jurisdiction, upon the evidence given, was found guilty, and properly sentenced to the punishment awarded to the offence of which he was so convicted.

There is no error in the proceedings, and there is no complaint that the punishment is excessive. On the other hand, we are officially informed that the judgment is warranted by the law and the evidence, that the sentence is just and right, and the punishment such as is usual for the commission of like offences. The time and place of the execution of that sentence is fixed, and the question now is, shall we request the Mikado to reprieve the man?

Were it a matter personal to myself, where my own feelings and interests were alone concerned, I should say yes. I do not desire, as an individual, this man's execution. But I am not acting for myself alone. My government and my countrymen have rights, and I am here to protect them. What I believe to be a stern duty, compels me, after serious and careful deliberation, to say no.

I think it would be clemency thrown away, humanity wasted. From my limited knowledge of Japanese character, I believe such an application on our part would be looked upon by them as an indication of weakness and fear, and the motives which induced the act would not only be misunderstood, but misrepresented. Reprieve him, and on the next occasion of the passage of troops through this town, there may be a recurrence of the outrage.

It will be said and believed throughout Japan that the foreign representatives dare not require the punishment of a Japanese, awarded by their courts of justice, and the murder of foreigners will occur with impunity. The courts themselves, seeing what they will denominate our weakness and vacillation, will be remiss in their efforts to detect, try, and properly punish criminals of this character.

The same reasons which induced me to unite in the demand for the capital punishment of this offender are still active in my mind. It will demonstrate to us that the

Mikado's government is a reality, that it is a substantial government, that it can and will punish the infraction of treaty stipulations and breaches of international law, and that it desires to strengthen its friendly relations with the foreign treaty powers.

In my view, our only true safety consists in making just demands and standing to them. Japanese character is not that of a Christian country. In yielding one iota from what we believe to be right, and what has been pronounced reasonable by the Mikado, we lose our vantage ground, and we are again plunged into a new sea of difficulties.

Let us be just and firm.

Very respectfully,

R. B. VAN VALKENBURGH.

HIOGO, KOBÉ, *March* 2, 1868.

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*Commander Creighton to Mr. Van Valkenburgh.*

No. 7.] UNITED STATES STEAMER ONEIDA, (3d rate,)
*Hiogo, Japan, March* 3, 1868.

SIR: In compliance with your request, I witnessed the execution of the Japanese official who ordered his troops to fire on the foreigners at this place, on the 4th ultimo. The particulars are as follows:

I left the legation at about 9 p. m. last evening, in company with the officers attached to the foreign legations, and proceeded to Hiogo, where we were met by a guard who escorted us to the temple where the execution was to take place. There was a large number of people on each side of the street leading to the temple, and quite a number of soldiers drawn up inside and about the temple. We were shown into a room adjoining the Japanese officials, where we were asked if we wished to question the person about to be executed, (to which we answered in the negative,) and also the names of the officials present.

After waiting about a half hour, we were conducted by the Japanese officials into what appeared to be the principal room of the temple, which was lighted with candles, and in front of the altar was a raised platform of about a foot in height, which extended across the room, and we were placed on the right of the altar, within a few feet of where the execution was to take place, with the Japanese officials on the left. In front of the altar there was a green cloth, and in front of that a red one. We were informed that the execution would take place on the red cloth. Seating ourselves upon the mats on the platform, we awaited the execution.

In a few minutes the prisoner came in, dressed in the usual Japanese dress of a person of rank, accompanied by the executioner. He walked, with a steady, firm step, in front of the altar, where he knelt in prayer. He then arose and went to the red cloth, where he knelt and made the confession that "he was the officer that ordered the troops to fire upon the foreigners, and also to fire upon them when they were trying to escape." He then disrobed himself to his waist, and reached out for a knife that was near him, which he thrust into his bowels, and leaning forward at the same time, the executioner, with one blow from his sword, severed his head from his body. This occurred about 10.30 p. m. The Japanese then bowed to the floor, on which we all did the same.

We were then asked if we were satisfied with what we had witnessed, when we replied in the affirmative. After a lapse of a few moments we were informed that all was over, when we arose and took our departure. The whole scene was one of great solemnity, and very impressive.

Very respectfully, your obedient servant,

J. BLAKELY CREIGHTON, *Commander.*

General R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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MARCH 2, 1868.

SIR: I have received his Majesty's command to apologize to you, for the unprovoked attack by the retainers of Bizen, upon the ministers and subjects of foreign powers, which offense is all the more grave from its being committed just at a time when the new government of the Imperial Court is being constituted. I am also commanded to state to the R. R. that the clans will be informed of the intention to cultivate mutual good faith, and strictly enjoined to abstain from such outrages upon our intercourse, and that consequently the Imperial Court holds itself responsible for all such acts.

I have, &c.,

UWAGIMA SHOSHÔ. [SEAL.]

NOTE.—In the present case Hiki Tatewaki is condemned to be put in confinement, and Taki Zenaburo to commit hara-kiri, as shown by the enclosed document.

[Translation.]

To HIKI TATEWAKI, *Retainer of Bizen, No Shoshó.*

On the occasion of your passing through Kobé weapons were used against foreigners on the pretext that they had broken your ranks, and in aggravation of this the Americans and French, who were trying to escape, and also the foreign ministers, were fired upon, nor was any attempt made to arrange the matter there. This is an outrageous and criminal act. The reformation at present in course of being carried out causes much anxiety to the Imperial bosom, especially in the case of foreign relations, in which is greatly concerned the stability of the nation. His Majesty is determined, whilst preserving his own dignity, to act in accordance with the public law of the universe, and to perform those things which are right and proper.

To have disregarded this state of things, and to have, on the contrary, acted in a way calculated to cause shame to his Majesty, is a flagrant crime, and one which cannot be passed over.

The man who gave the order to fire is therefore condemned to perform hara-kiri in the presence of witnesses of the different nationalities.

Dated second month.

To HIKI TATEWAKI, *Retainer of Bizen, No Shoshó.*

When you were passing through Kobé your followers committed an outrage on foreigners. As this is an act which cannot be passed over, they are punished for it. But as his Majesty is of opinion that it proceeded from the said man's (Hiki Tatewaki's) orders not being properly enforced, it is ordered that he be kept under arrest.

Dated second month.

TAKI ZENZABURO, (aged 32,)
*Retainer of Hiki Tatewaki, of Bizen.*

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## *Mr. Portman to Mr. Seward.*

LEGATION OF THE UNITED STATES,
*Yokohama, March* 6, 1868.

SIR: On the 3d instant the people of Yedo were publicly notified by the government that war had been reported to exist between the Mikado and the Tycoon; that this was not true, but southern Daimios, claiming to act in the name of the Mikado, had declared war against Tokugawa, and that Tokugawa (of which family the Tycoon is the chief) was firmly resolved to maintain his rights.

With reference to this notice, another one was issued to the army and navy, and to two-sworded men generally, ordering them to appear at certain places named to testify their devotion to the Tokugawa cause, and intimating that "those who might be inconvenienced by scruples to appear for the purpose indicated, were permitted to commit hara-kiri, (suicide,) and would receive the assistance of the government to that effect."

Similar notices were issued in the provinces.

I was informed that the attendance at Yedo was universal and most enthusiastic.

An embassy sent by the Tycoon to the Prince of K'shiü, offering to abdicate in his favor, has not yet returned. It is considered doubtful whether this prince will accept, as those who claim to act in the name of the Mikado have abolished the Tycoonate. By accepting the high office of Tycoon, the Prince of K'shü would deviate from his policy of armed neutrality, and invite the hostility of the Mikado's party, which appears to be gaining strength.

If K'shiü, therefore, assumes those rights, he may soon have to fight for them, and Stotsbasi (Yokugawa) probably calculates in that case to

step in with his well-organized forces, and decide the contest on his own chosen ground.

Intelligence has been received here, yesterday, that the powerful Daimio Tye Kamonnokami, whose father, while regent, was murdered in Yedo by the Mito party, in March, 1860, had sent in his adhesion to the Mikado's party, and agreed to furnish an escort of three thousand men to the Mikado's envoys now on their way to Yedo. Instead of furnishing the three thousand men that were promised, only five hundred men, indifferently armed, had been sent, and the Mikado's envoys are reported to have been somewhat delayed in consequence.

The Swiss and Portuguese consular officers, claiming to have no authority, have not yet issued any notices of neutrality.

I have reported this omission to Mr. Van Valkenburgh for the information of himself and colleagues.

I have the honor to be, sir, very respectfully, your most obedient servant,

A. L. C. PORTMAN.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 25.] LEGATION OF THE UNITED STATES,
*Hiogo, March* 11, 1868.

SIR: In pursuance of the joint resolution of the representatives to proceed to Osaka, of which I informed you in my last (No. 24) on Thursday, the 5th instant, I went on board of the United States ship Oneida, accompanied by the Italian and Prussian representatives, and proceeded to that city. We found there everything quiet, it being in the possession of the troops of the Mikado, the citizens having returned and being in the performance of their accustomed avocations. The residence of the late Tycoon within the walls of the castle had been entirely destroyed by fire, while the walls themselves and the turrets were shattered by explosions. The barracks surrounding it, together with the buildings formerly occupied as the English legation had also been burned; the building occupied as the French legation and the governor's house and offices were much torn to pieces, and some fires had occurred in other portions of the city. I found Uraijee, the temple I had occupied as a legation, in good condition and ready to receive me. A portion of my furniture, which I had been compelled to leave behind on our hasty departure, had been taken away or destroyed by the troops that had subsequently occupied the temple. I landed and marched through the city, some seven miles, taking with me only a marine guard of ten men, under command of Midshipman Emory, all of whom were kindly furnished me by Commander Creighton of the Oneida. On the next day, the 8th instant, I received a visit of ceremony from Higashi Kuze, Sakinoshosho and Date Tyonokami, the two commissioners for foreign affairs, who congratulated me upon my arrival and expressed a desire to continue and cultivate friendly relations between the government of the United States and that of the Mikado. I reciprocated their friendly desire and good wishes. They informed me again, in answer to inquiries put, that large bodies of troops were marching toward Yedo, that three envoys had been sent with them to treat with Tokugawa Yoshinobu, (the late Tycoon,)

and that the officers had instructions to observe the rights of all foreigners and to treat them with consideration. I then told them that the interests of my government were very large at Yokohama, within about two miles of which place these troops would pass on their march to Yedo; that Yokohama was occupied by a governor, officers and troops of the late Tycoon, and I feared that the great interests I represented might in some way be jeopardized; that their troops marched without order, straggling and apparently under no command, and that duty seemed to require that I should at once leave for Yokohama; that I had made my preparations and should sail on the following Monday, (March the 9th.)

On the 7th instant all the representatives met the two commissioners at a large temple near the centre of the city, and were there introduced to the governor of Osaka recently appointed a Kuge of the court of the Mikado, and to eleven high officers representing eleven of the large Daimios, who are supporting the Mikado and furnishing contingents for his army. The conversation was of a general character, principally upon the question of finance and currency, the commissioners desiring that a regular rate of exchange of boos for Mexican dollars should be established, and that such rate should be the same throughout the empire. But nothing decisive was agreed upon. I then took leave of the commissioners, informing them that on the following Monday I should leave for Yokohama. Similar information was given to them by the representatives of Prussia and Italy.

On the evening of the next day (March 8th) I received a communication from the two commissioners for foreign affairs desiring a conference, and they visited me at half-past twelve o'clock in the night. They then informed me that a collision had occurred that afternoon at Sakai, a suburb of Osaka, on the bay and about eight miles from my legation, between some natives and foreigners, and they believed a foreigner had been injured. At the same time they gave me a verbal invitation to visit the Mikado at Kioto. I told them that I extremely appreciated the honor, and would readily accept the invitation; that the President of the United States desired to be on the most friendly terms with the Mikado and his government, but that some time must be allowed me to properly present myself at his court; that now, as I had already on two or three different occasions informed them, my duties demanded my immediate return to Yokohama to protect there the interests of my government and the lives and property of my countrymen; that if they would fix such time in the future as would enable me to fulfill that duty, I would return to Osaka and proceed to Kioto; that now, as they well knew, my arrangements had all been completed for leaving on the following day. They then promised to call on me in the morning and consult further upon the subject.

About half-past one o'clock, (a. m.,) and soon after the commissioners had left me, I was summoned to a conference of the representatives at the legation of the French minister, where, upon arrival, I found all my colleagues assembled, with the news, just officially received, of the collision at Sakai, and of which the commissioners must have been fully informed before their visit to me.

At Sakai one branch of the main river, passing through Osaka, debouches into the Gulf of Osaka. This branch is sometimes used for the passage of boats and junks into the gulf when the surf is high on the bar at the mouth of the main river. The French frigate Venus and corvette Dupleix were lying off Osaka. The French admiral had given orders to the commander of the Dupleix to cause this passage through Sakai and the bay near there to be properly surveyed and sounded. In compliance

with this order, the commander of the Dupleix had concluded to send in his boats a surveying party, on the morning of the 8th instant, and had given information of his intention to the French minister. This information was transmitted to the commissioners for foreign affairs and by them to the guard at Sakai, with instructions not to interfere with such foreigners. This instruction was hardly necessary, because Sakai is especially opened to foreigners by the arrangements completed with the Japanese government for the opening of Osaka, and which were published on the 1st of January last. Captain Roy, of the Venus, and the French consul at Hiogo, Mr. Viault, had been spending the previous day with the French minister, and on the morning of the 8th, mounted on horseback and escorted by three jakunins, started to go to Sakai for the purpose of meeting the boats and surveying party and then going off to the Venus. After reaching the bridge crossing the branch of the river near Sakai, they were not permitted to pass by the guard in charge of it, but were compelled to return to the legation. The surveying party which were there from the Dupleix were in two boats, one containing one officer and seven men, the other a steam-launch containing one officer and fifteen men.

They had hauled up the steam-launch close to the landing-place, and had been kindly treated by all the residents of the place with whom they had come in contact. Two of the men went ashore, and after passing a short distance up a street, were arrested by some Japanese two-sworded men, who attempted to take them off. One of them pulled away from the guard and attempted to run back to the boat, when suddenly from all sides a large number of Japanese armed men sprang up, fired at this man, wounding him, and rushed down to the boat, firing at all foreigners in sight. After reaching the landing near where the steam-launch was lying, they fired at all the crew and continued their attack until they had, as they believed, killed all on board. They then retired. Eleven men, including the midshipman in charge of the launch, were killed, four were wounded, and one escaped unhurt. The wounded men, in conjunction with the one unhurt, succeeded in getting the launch off and out of reach of the shore, where they were subsequently picked up by boats from the Dupleix. The smaller boat's crew succeeded in getting off with only one man wounded. In the two boats were two officers and twenty-two men. One officer and ten men were killed and five men were wounded. The commanding officer of the Dupleix immediately sent armed boats toward the shore, but finding that the forts were manned and every preparation had been made to resist an attack, prudently retired to his ship. This affair occurred about 5 o'clock p. m. of the 8th instant, and was the work of the retainers of Tosa, a prince whose people have had little acquaintance with, and are therefore inimical to foreigners, but who were in charge of the town of Sakai, under orders from the Mikado's government. We were up all night consulting as to measures to be pursued under the circumstances, and not being entirely confident of our own safety. On the morning of the 9th, the commissioners of foreign affairs and all the representatives held a conference at my legation. The commissioners expressed the regret of the government and their own personal regret for the occurrence, declaring that there was no provocation for the attack, and assuring us that prompt satisfaction should be given. Six of the bodies of the unfortunate Frenchmen had been left on shore, not having reached the launch before they were killed; these were afterwards delivered on board the Dupleix in coffins.

On the afternoon of the 9th instant, in company with the Italian and

Prussian representatives, I embarked on board the Oneida. The French minister also embarked, on that day, on board the French frigate Venus. On the next day, the English minister embarked on board the Ocean. The 10th was windy, and we remained in the roadstead of Osaka. The United States steamer Monocacy arrived on that day, having come from Yokohama for the purpose of taking me to that port, the Iroquois being disabled from the performance of that duty by reason of having several cases of small-pox among her crew.

This morning, having transferred myself and suite on board the Monocacy, we came to this port, accompanied by the Oneida. The French corvette Dupleix and the English iron-clad Ocean also came down, and we have just attended the funeral of the unfortunate eleven men who have been so cruelly murdered. To-morrow, I hope to leave this port on board the Monocacy for Yokohama.

I have the honor to transmit herewith—

Inclosure No. 1. In relation to the murder.

Inclosure No. 2. Official report of the same.

Inclosure No. 3. Official report continued.

Inclosure No. 4. Sketch of the port of Sakai.

Inclosure No. 5. Mr. Van Valkenburgh to the Mikado's government.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Roches to Count de la Tour.*

LEGATION OF FRANCE IN JAPAN,
*Osaka Roads, on board the Venus, March* 10, 1868.

MY DEAR COLLEAGUE: At the same time with myself you heard the assault committed on the 8th instant at Sakai, by retainers of the prince of Tosa, upon the flag of France and the lives of French sailors.

In order that you should be fully informed of the hateful character of this assault, and of the abominable circumstances under which it took place, I deem it proper to submit to you the reports of the commanders of the Venus and the Dupleix. The details accurately set forth in those reports will enable you clearly to comprehend the seriousness of the offense and the barbarism of those acts.

You are also aware that immediately and previous to my withdrawal on board the Venus I demanded from the government of the Mikado the bodies of the unfortunate sailors and of the missing officer, reserving further action in regard to the requisite reparation.

Within the time granted for the recovery I received the intelligence from the Mikado's government that the bodies had been found, and that they would be returned; and this has taken place to-day.

This morning their excellencies Iwasima Iyonokami and Higashi Shosho, and also Messrs. Kumadzu and Godoi came on board the Venus to furnish the information they had collected, and to again express their regret at the occurrence.

I asked these high officers whether any act, a word, any imprudent gesture had been noticed on the part of the French sailors. They said that, quite to the contrary, the acts as well as the manners of those sailors had not been in the least to blame, and that the aggressions had taken place without the shadow of a pretext.

I asked him why the commander of the Venus, who on the same day, in company with the vice-consul of France at Hiogo, had gone to Sakai by land to meet his boat, had, notwithstanding his entreaty, been refused to enter the town by the officers of Tosa, while the government had been notified that soundings would be taken, and while the commander of the Venus was accompanied by an escort of four Takonins of the government?

They said that the officers had been questioned, and replied that they did not know that the port of Sakai was open according to the treaties.

I finally asked them if the presence of the French flag, the sight of French uniforms, or the nationality of the men, or even if any reminiscence or special motive had anything to do with the aggressions or with the cruelties practised on the French sailors.

They answered me that in all that had happened there had absolutely been nothing exceptional towards France, and that they could only perceive the effects of a general and savage hatred which animated these barbarians against foreigners indiscriminately.

After the steps taken and the replies made by the government of the Mikado, the bearing of this government appears to me as proper and sincere as could be wished on this occasion.

It strikes me, therefore, that a similar misfortune might befall any other navy or any other flag; and from this point of view it is not only France that is insulted, but in fact all the foreign nationalities, which the men of Tosa have wished to humble and bully at Sakai, and that the same barbarism is still held out in defiance to all.

I feel sure those were your thoughts during the nights of the 8th and 9th, at the first news of the assault, and without even being aware of the extent and the details. You have been kind enough, as did also our colleagues, to express your sympathy in that misfortune. You did not feel justified longer to remain, or to leave your flag in a city at the gates of which a European flag had been cowardly insulted.

I judged I could not better respond to these proofs of solidarity, for which I am deeply grateful, than by submitting to you, together with the reports of the commanders of the Venus and the Dupleix, the answer given by the government of the Mikado.

As for the reparation to be demanded, the same acknowledgment of solidarity prevents me from separating in this sad affair the cause of France from that of the other nationalities. Convinced that each of our colleagues had taken up as his own the insult perpetrated by the men of Tosa on the foreign flag, on this occasion represented by the flag of France, I intend to apply for your moral support, and to agree with you in order to procure an efficient repression. We should not forget that the insult in question is not the first one experienced by foreigners at the hands of the officers of Tosa, and if the weakness of the preceding government was an obstacle to lawful punishment, the advent of a new government, and the circumstances which have made this Daimio one of its active chiefs, lead us to hope that at present we shall obtain satisfaction for the offense from which we have suffered.

As soon as I shall have paid at Hiogo the last honors to the unfortunate victims of the barbarism of the men of Tosa, I shall have the honor to consult you on the proposals it will be proper to address to the government of the Mikado, and I firmly hope that, like myself, you will require an example, which, in the future, may completely shield all flags and all foreigners from similar indignities.

Be pleased, sir, to accept the assurance of the high consideration with which I have the honor to be your obedient servant,

LEON ROCHES,
*Minister Plenipotentiary of France in Japan.*

His Excellency COUNT DE LA TOUR,
*Minister of the King of Italy.*

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*Mr. Petit Thouars to the captain commanding ad interim the squadron of the China seas.*

STEAMSLOOP DUPLEIX,
*Osaka Road, March* 8, 1868.

SIR: I have the painful duty to perform to report to you the sad accident that at 5 o'clock this afternoon happened to the steam-launch of the Dupleix.

In obedience to your order, I sent the launch, with a whaleboat of the Venus in tow, to take you on board at Sakai, and also the consul of France, instructing Ensign Paris, in charge, and also Midshipman Guillon, to go along the coast taking soundings to ascertain with the whaleboat that there was sufficient water between the jetties and the inner harbor for the launch before entering, and to wait for you from 3o'clock to take you back on board. The launch had a crew of fifteen men, among whom was one senior quartermaster, Lemeur, and one second-class engineer, Durel, in charge of the engine. As on the preceding days, each man was furnished with a revolver and ammunition, all kept in a chest to prevent accidents, the men of the Venus were not armed. Arrived at Sakai at 3 o'clock precisely, and without the slightest difficulty. Mr. Paris, seeing the population as quiet and good-natured as on the preceding days, anchored the launch in A, leaving Mr. Guillon in charge to watch the men, and recommending him to shift his berth to the center of the inner harbor, if the curiosity of the Japanese should become troublesome. He then left to take soundings in the vicinity. A little later, at ten minutes to 5 o'clock, he returned, and found everything perfectly quiet. He then proceeded to take soundings in C. Durel and Lemeur then asked Mr. Guillon permission to take a stroll on the wharf B, which may be about two hundred meters (French yards) in length. The permission was readily granted, as for two hours the population remained good-natured, and several persons had landed without the slightest annoyance having been shown by the natives. As soon as they came to point B, that is a distance of hardly fifteen yards from the launch, they met a two-sworded

man, who invited them to come to the other side, and then this person uttering a yell, they found themselves suddenly surrounded by a troop of armed men, dressed similarly, among whom were two men bearing flags, as given in the diagram appended, and those men then took their hands in order to tie them. Lemeur at once attempted to resist, but Durel told him to let them do so. He endeavored to make them understand who they were, and during this parleying they were gradually being crowded towards the interior of the town. On perceiving this, Lemeur suggested to Durel to try to turn back, little by little, towards the launch. He then with a jerk turned back, and freeing himself at once from those who thought they held him, he began to run towards the launch. Fire was at once opened on him, and the entire armed gang then ran after him in the direction of the launch. He jumped in, cut the rope at the stem, crying to the stoker to start the engine, but at the same moment both fell dead. The steam-pipe was cut by the bullets, and then all those Japanese discharged their arms at short range in the boat, keeping up the fire for a few moments.

Our unfortunate men, thus unexpectedly attacked, only thought of jumping overboard on the other side to find protection behind the boat, and some of them must there have been drowned. No further signs of life being perceptible, the firing ceased, the Japanese retired, and seven of our men, all seriously wounded, with the exception of Durel, who, owing to the confusion, jumped in the water, where he would certainly have been drowned but for the faithfulness of one of our men, taking advantage of the first moment of respite shoved off, took hold of the oars, and succeeded in clearing the passage without again having been fired at; and once outside, they set sail and made for the ship.

At a quarter past 6 o'clock, Mr. Paris, from whom you will find a sketch of Sakai and also a note appended to the statement, reported to me the attack on the launch; and thinking that she might still be in the hands of the Japanese, and that you might perhaps be waiting for her at some point, and also if this assault was only the work of a robber, the people themselves would return us our men, I gave orders to arm the boats of the Venus and Dupleix, and leaving my senior officer to bring them, I went at once, accompanied by the surgeon and Mr. Paris, towards a boat which our quartermaster believed to be the steam-launch. At the same time I directed the officer in charge of the Venus to inform the minister of the occurrence, and also gave notice to the commander of the Ocean, whom I informed that it was not my intention to attack that evening, if I succeeded in recovering my launch. To act otherwise might have endangered the safety of our ministers at Osaka, the lives of our men, if any were still alive, among whom I believed yourself might be, and might be also engaging a battle without certainty of success. Leaving the ship under those circumstances at twenty minutes past 6 o'clock, I met our launch half way, under canvass, having only seven men on board, of whom only one was unhurt; two dead bodies were there also; consequently seven men, among whom Midshipman Guillon had disappeared, probably wounded first and then drowned. I ordered the launch to be towed on board by two boats, and with the five remaining boats which had joined me I proceeded to the entrance of the passage defended by the two forts. I proceeded in the whaleboat, the other boats in double file. The two leading boats were to follow me in the inner harbor, and the others to wait at the entrance, and not to go through the narrow passage unless to assist us, if they heard firing. I soon perceived, however, that we were expected, although it was 10 o'clock in the evening. Men were visible along the parapets, the guns were armed, though their crews concealed themselves, and soon a field-piece was placed on the jetty to the left, which was simultaneously reported to me by the officers in the two boats nearest to my whaleboat. To proceed might be placing all the interests I have named in jeopardy; and my launch being safe, I gave orders to the boats to return to their ships. Most fortunately, also, at the same moment I received a message from Mr. Giquel, informing me that you were safe at Osaka.

In summing up what I have learned of this sad affair, I think, first, that the population of Sakai is not implicated in the matter; second, that this assassination has been committed by a perfectly organized gang, who were in ambush near the bridge B for the purpose of capturing some of our men; third, that the firing was probably intended for Quartermaster Lemeur, and because he attempted to escape from those who held him; fourth, that the defense of Sakai was this evening regularly organized at an hour when Japanese have generally retired, the authorities of the town must have been informed accordingly; fifth, that the men firing at the crew of the launch have not furnished the shadow of a pretext to the abominable crime of which they have been the victims.

In submitting to you these heart-rending details, it is very gratifying to me to be able to say that among the survivors from this catastrophe several have given proof of the highest courage, and that the commander of the Ocean, as soon as he heard of it, kindly sent me his surgeon at once.

I have, &c.,

BERGASSE DU PETIT THOUARS.

The CAPTAIN *commanding ad interim the squadron of the China Seas.*

*Mr. Petit Thouars to the captain commanding ad interim the squadron in the China Seas.*

FURTHER IN RELATION TO THE AFFAIR OF SAKAI—RECOMMENDATION FOR THE CROSS AND THE MEDAL.

CORVETTE DUPLEIX,
*Osaka Roads, March* 10, 1868.

SIR: The four wounded who survived the murder of Sakai being convalescent to-day, I questioned them more particularly, and I have collected information, which enables me more correctly to represent the facts in that case; the quartermaster, Durel, from whom I obtained most of my previous information, only knew from hearsay what had taken place in the boat, because he only got into it again after the departure of the Japanese, who must have thought that all had been killed.

Not only were the people of Sakai free from ill feeling, but they were so good natured that more than once fruit and cakes had been brought to our sailors; those men, therefore, were without the slightest mistrust in the launch and on the wharf, joking with the Japanese, by whom they were surrounded; when suddenly Quartermaster Lemeur, who had just come on shore with, Durel, came back running, saying: "Shove off, we are lost, the guards are coming;" then Midshipman Guillon, standing behind, ordered: "Cut the ropes—start the engine," and at the same moment from sixty to seventy men, armed with carbines, followed by others carrying sticks and hooks, came down to the wharf, pushing back the crowd, which ran away frightened, and then began firing on the launch close by.

Lemeur and the fireman were killed at once; several men wounded dropped in the boat, others overboard, and those who had not been hit at the first fire, finding themselves so suddenly attacked, also jumped overboard on the other side, hoping in that manner to escape being butchered.

But as soon as a Japanese had fired his musket, he went under cover to reload, then fired again on those who, in the water or overboard, still gave signs of life, while others, armed with hooks, went along the wharf, seized the unfortunate men who were swimming, to knock their brains out. Mr. Guillon, first wounded in the hand, appears to have been shot in the head while he was swimming away; and the escape of the four survivors is owing to the two men, who, dangerously wounded at the first fire, fell senseless in the bottom of the boat, and to those others who managed to keep their heads above water without being perceived between the launch and a junk close by.

There, also, Quartermaster Durel, who could not swim, in a truly providential manner made his reappearance after he threw himself into the water. As for the seventh man, he was supposed to be dead, and left on the wharf, where he had been knocked down with hooks; but the people of Sakai, who returned as soon as the soldiers had left, still perceiving that his eyes were moving, made signs to him to get into the boat, which sufficiently proves that the people had nothing to do with this abominable crime.

When the firing ceased, Durel, seeing the soldiers go away, got into the boat again, hoping to find the engine in working order, and to take her away at once, but the steam-pipes were broken; then assisting the wounded to get aboard, and encouraging them by his example with those six men so seriously wounded that two of them died since and that two others still cause us the deepest anxiety, he succeeded in getting under way, to man two oars, and to reach the end of the jetties, when hoisting sail he made for the ship.

It is thus owing to the coolness, courage, and determination of this non-commissioned officer that the entire crew were not lost, and the launch itself saved, because the Japanese, as has been ascertained afterwards, only went away for a moment, for the purpose of fetching the necessary instruments to destroy the boat.

I have therefore to request, sir, that you will authorize me to recommend this non-commissioned officer for the cross of the Legion of Honor, as also the man Gomor, who, though wounded already, saved Durel by supporting him behind the boat, when half-drowned from being under water some seconds he had nearly fainted.

I would also request to recommend for the military medal those wounded who so bravely brought us back our boat; the spirit of those men is beyond praise; and the remembrance of what I have witnessed and heard in the boat, when I joined her towards half-pasteseven in the evening, can never be forgotten. Not a sound—no complaint. Here is the captain; no one had hurt them—certainly not; we were all very quiet, hoping that the captain of the Venus may not have met those men. I jumped on board with the surgeon, ordering Mr. Paris to tow us on board with the whale-boat; a rope was to be fastened and the sail to be set, which had come down when I boarded. I told a man to do so: "Both of my arms are broken, sir." To another man in the bottom of the boat: "Both of my legs are broken, sir." This man had been shot through the body. With a third it was the foot; and so forth with the others. I repeat, Durel was the only able-bodied man left, and those six men, two of whom were dying, and

two others, who are in the most dangerous condition, who assisted him in saving the boat.

I should also wish to recommend Mr. Ensign Paris for the cross of the Legion of Honor. This officer, who hastened to come up as soon as he heard the first shots fired and reached in sight of the launch to see the last man fall, being unarmed, he remained ready to pick up those who might still be alive, and he did not leave to report to me what had taken place until signs of life were no longer visible, when the man with the lead had been hit twice, and the whale-boat received several bullets.

I have the honor to be, sir, your obedient servant,

B. DE PETIT THOUARS.

The CAPTAIN *commanding ad interim the squadron in the China Seas, Venus.*

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*Mr. Van Valkenburgh to the ministers for foreign affairs.*

No. 41.] LEGATION OF THE UNITED STATES IN JAPAN,
*Hiogo, March* 11.

I have been informed of the nature of the reparation asked by his excellency the minister of France, for the recent unprovoked murder of his countrymen at Sakai.

I trust your excellencies will see the importance of his Majesty the Mikado at once acting according to this request of his excellency the minister, and that prompt satisfaction may be given to him.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister resident of the United States in Japan.*

Their Excellencies HIGASHI KUZE SAKI NO SHOSHO,
DATE IYO NO KAMI,
*Ministers for Foreign Affairs.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 27.] LEGATION OF THE UNITED STATES,
*Yedo, March* 23, 1868.

SIR: On the 12th instant I left Hiogo, on the Monocacy, accompanied by the Italian minister and the Prussian chargé d'affaires, who accepted the hospitality of Commander S. P. Carter for the trip, and we arrived at Yokohama on the morning of the 14th. Mr. Portman had been diligent and attentive to the interests of our government at that place during my absence, and I am happy to approve of his action, the result of which he has furnished to you in his several communications to the department. I found that the governor of Kanagawa had received instructions from the late Tycoon to surrender to the authorized officer of the Mikado, upon his presenting himself, the government of Yokohama, including the custom-house and all government offices, but such authorized agent has not yet appeared. After remaining a few days at that place I came here on the 18th instant, and was immediately waited upon by several of my old friends, the governors of foreign affairs, who congratulated me upon my safe arrival. They at once furnished me with a personal guard of twenty-four Yaconins, and increased my legation guard to about seventy. I am now the only representative in Yedo, and they informed me that this increase of guard was a mere matter of precaution, and not that they then apprehended any great danger, but assured me they would give me timely notice of the advance of troops upon the city. On the next day (the 19th) I received a visit from the chief of the Wakatosiyoni, or second council of the late Tycoon. He informed me that the Tycoon, having declared his intention of submitting to the orders of the Mikado, had become inkio, or gone into retire-

ment. That he had tendered the succession to the Prince of Kishiu, but as yet it had not been accepted by him. That the Tycoon had left his castle and gone to his temple of Wuyerio, refusing to see any of his officers, and thus proving to his people his sincerity in his submission. That the late Gorogio had all been dismissed or retired, and that the government of Yedo, Yokohama, and the provinces pertaining to the Tokugawa family, was carried on by himself and the governors for foreign affairs. Some of the Tycoon's officers and Daimios are indignant at this course pursued by the Tycoon, and declare themselves ready to carry on the war, should the troops advance into their provinces. Some of them with their retainers have retired to their own homes, yet there are many armed men in the city. The troops of the Mikado are slowly approaching on the Tokaido, and should they meet with no resistance, will probably reach here in ten days or two weeks. This is a strange country and a singular people. I am unable to say what will occur; I think there will be slight or no opposition to their entering Yedo; yet after they have once arrived I fear much blood will be shed in street fights, and that, too, perhaps, by organized bodies of men. It will probably be a guerrilla warfare, with Ronins (outlaws) upon one side and the troops of the Mikado upon the other. I shall not remain here. During my absence, Mr. Portman caused the archives of the legation to be removed to Yokohama for safety, and I shall go there in the course of the week to remain until times are more secure.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 47.] DEPARTMENT OF STATE,
*Washington, March* 24, 1868.

SIR: I have to acknowledge the receipt of your very interesting dispatch of the 16th of January, No. 3. You have explained the attitude of the several contending parties in Japan, their policies and purposes, in a more lucid manner than it has yet been presented to the notice of this government.

Revolution having begun with a formidable development of civil war, we must regard its future course as altogether uncertain. It is not doubted that you will practice a wise discretion, and that you will adhere to the existing government while it still maintains its power. You will neither take position adverse to, nor will you prematurely commit the United States to any political power which may come up in these convulsions.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, *&c., &c., &c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 31.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 2, 1868.

SIR: I have addressed a letter, copy of which I herewith transmit, inclosure No. 1, to Mr. Stahel, our consul at Kanagawa, desiring him until further notice to issue no passports to American citizens to visit Yedo.

That city was to be opened to the citizens and subjects of the treaty powers on the 1st instant, but in concert with my colleagues we arrived at the unanimous conclusion, that in the present unsettled state of affairs in this country, the duration of which cannot even be estimated, it would be unsafe to allow our respective citizens and subjects to visit places where we do not command the means fully to protect them.

This also applies to Ne-egata, which was to have been opened on the same day.

From inclosure No. 1 of dispatch No. 25 of this series, you will have perceived that the Mikado's commissioners, in reference to the cause of the murder of the unarmed Frenchmen at Sakai, frankly admitted that in their opinion this outrage was attributable to the "general and savage hatred" existing against foreigners indiscriminately.

As there appears to be as yet no government sufficiently strong in this country to prevent outbreaks of that nature, or to be held responsible in cases of outrages on foreigners in whatever part of Japan they may have been committed, I beg to submit that I was justified in assenting to the postponement of the opening of Yedo and Ne-egata, and that both those places should remain closed until the lives and property of American citizens can be amply protected there.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington. D. C.*

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*Mr. Van Valkenburgh to Mr. Stahel.*

No. 43.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, March* 31, 1868.

SIR: The troubles existing in Japan at this time would render it unsafe for the citizens of the United States at present to locate in or visit the City of Yedo or the port of Neegata. In consequence thereof, you will decline to give passports under the arrangements made for the opening of Yedo until you receive further information from me.

I am, sir, respectfully, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

General J. STAHEL,
*United States Consul, Kanagawa.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 32.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 3, 1868.

SIR: On the 30th ultimo several soldiers belonging to the advance of the Mikado's army, on their way to Yedo, visited this place, and this

continued on the two days following. They appeared to be under no command, and their presence evidently caused some uneasiness both among the foreign and the native population. Uninvited they entered foreign houses and behaved quite rudely. I agreed with my colleagues upon a preventive measure of joint occupation of the approaches to this town, copy of which agreement I herewith have the honor to transmit, inclosure No. 1.

In accordance therewith I addressed a letter to Commander S. P. Carter, commanding the "Monocacy," and senior naval officer, inviting him to carry out this agreement in co-operation with the naval and military authorities of the other nationalities, and I now transmit inclosure No. 2, copy of his reply; covering copy of the arrangement entered into by him for the protection or defense of this town.

A system of passports was also established; such passports were issued by the legations and countersigned by the governor of the port, by whom they are distributed only to such two-sworded men who resort hither on duty or on lawful business.

This measure, now in operation, has given general satisfaction at this place, and the uneasiness first experienced has entirely subsided.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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YOKOHAMA, *April* 2, 1868.

The undersigned representatives of France, Great Britain, Italy, Prussia, and the United States, taking into consideration the present troubled state of affairs, and the fact that large numbers of armed men are straggling into the foreign as well as the native quarter of the town of Yokohama, unattended apparently by responsible officers, and that the government also appears unable to maintain order, hereby agree to request their respective naval and military commanders to adopt the following measures:

1. To occupy permanently the posts marked in the annexed plan, conjointly with Japanese guards. The foreign commanders should not for the moment interfere with the ingress of any Japanese, unless called upon to do so by the Japanese guard, but should be prepared to resist foreigners generally in case of alarm or attack.

More explicit instructions will be given for their guidance as soon as possible.

2. To concert measures to land additional forces in case they should be required.

L. ROCHES.
H. S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VON BRANDT.

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*Commander Carter to Mr. Van Valkenburgh.*

UNITED STATES STEAMER MONOCACY,
*Off Yokohama, April* 2, 1868.

SIR: I have the honor to inclose for your information a copy of the arrangements made this day by the naval and military commanders of the treaty powers for the protection and defense of the foreign settlement of Yokohama.

I shall be obliged if you will send me a copy of the second letter, written and signed conjointly by the ministers, on the subject of restricting the Japanese entering Yokohama to those provided with a pass from one of the consulates.

Some of the commanders who were at the conference had been furnished with a copy of the above letter, but I have not yet received one.

I have the honor to be, respectfully, your obedient servant,

S. P. CARTER, *Commander.*

Hon. R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

YOKOHAMA, *April* 3, 1868.

1. The naval and military commanders of the foreign nations having assembled and read over the requisitions of the foreign representative ministers, as communicated in two letters dated 2d instant, have decided to place guards at the posts as marked in the inclosed plan, as follows:

No. 1. French, two sentries.

No. 2. English, two sentries.

No. 3. English, four sentries, two bridges to defend. There should be a strong guard here, say one officer and twenty men.

No. 4. Main bridge leading to the Tocaido, an important point, furnishes by the English two officers and thirty men. Two guns to be placed at the gates to send out patrols.

No. 5. Prussian, twenty-five men; also to guard Prussian legation and patrol.

No. 6. French, sixteen men, to guard French legation and patrol; also to guard the wharf.

No. 7. American, (custom-house,) twenty-five men, as a central force and patrol. To place here two English guns, two carts with intrenching tools, and seven fire-engines. (Ocean's.)

No. 8. French, (French hospital,) seven men. These positions to be occupied immediately after the approval of the ministers.

2. In case of an attack in force the naval and military commanders have made every arrangement to re-enforce these posts and defend the settlement.

3. Alarm signals, as follows:

By day, two guns to be fired in quick succession from French quarters, and a signal from French flag-staff, answered by a flag at fore from each man-of-war.

By night, two guns as above, followed by a rocket, answered by a rocket from each man-of-war.

L. ROY.
CHANDUS S. STANHOPE.
W. SANKEY.
KUHN.
S. P. CARTER.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 33.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 3, 1868.

SIR: With reference to my dispatch No. 25, of the 11th ultimo, you will perceive that at 12½ o'clock at night, or in the morning, of the 9th ultimo, on the occasion of the communication being made to me by the commissioners of the Mikado, of the collision that had occurred on the previous afternoon at Sakai, the particulars of which were then withheld from me, I received a verbal invitation to visit the Mikado at Kioto.

In reply, and while expressing my extreme gratification at the invitation, I reiterated my determination, as announced two days previous, to proceed to Yokohama on the following Monday, (the 11th,) where, in view of the approach of large bodies of armed men on the way to Yedo, I deemed it important to look in person to the protection of American interests in anticipation of collision between those armed men and the forces of the Tycoon.

The invitation to visit the Mikado was accepted by me, for some future day, and as soon as I could have completed my preparations to that effect. In this decision the representatives of France, Prussia and Italy concurred; the representatives of England and Holland, however, at once agreed to proceed to Kioto at the time appointed by his Majesty the Mikado.

After my return to Yokohama, and also after the reparation demanded from the Mikado's government for the Sakai murder had been rendered, the French minister deemed it proper to change his mind, and those

three representatives, namely, of England, France and Holland, accordingly proceeded to Kioto.

On Sunday, the 22d ultimo, the French and Dutch representatives had an audience from the Mikado, and on the following day the British minister, on his way from his temporary residence to the Mikado's palace for the purpose of having his audience, was suddenly and savagely attacked by two fanatics, apparently abetted by others, who, however, did not actively participate in the assault.

I have the honor to transmit herewith, No. 1, a detailed account of this attack, also showing the number of wounded and the reparation tendered at once by the Mikado's government.

The English minister then had his audience on the next day, the 24th ultimo, but no account of what transpired on that occasion has as yet been furnished me.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Attack on the English minister, Sir Harry Parkes, and guard, at Kioto.*

Our readers are aware that an attack of a singularly desperate character was made upon the British minister, as he was proceeding, on the 23d instant, to have an audience of the Mikado at Kioto.

In order to understand what occurred, it is necessary to bear in mind the order in which the procession left the temple which had been set aside for the British legation. First rode the inspector of the legation escort, accompanied by Nakai Kozo, an officer of the Mikado, formerly belonging to the Satsuma clan. Next came the mounted escort of the legation, immediately preceding Sir Harry Parkes, by whose side was riding Goto Shojiro, an officer of high rank in the new foreign department. Sir Harry was also accompanied by Mr. Satow. A detachment of the 9th regiment, under the command of Lieutenants Bradshaw and Bruce, followed, and Mr. Mitford, who, having no horse, was riding in a kango, brought up the rear. By great good luck, Dr. Willis, of the legation, and Drs. Purves and Ridings, of her Majesty's navy, who had accompanied the minister to Kioto as guests, had followed to see the procession enter the palace.

As the leading files of the procession turned the corner of the street, only a few hundred yards from the temple, several armed Japanese sprang suddenly out of houses on both sides of the street, and commenced cutting all around with their two-handed sword, with fearful rapidity and force. The horses, of course, became wildly excited, and little opportunity was afforded to the men of the escort of using their lances with effect in such a narrow street. Nakai Kozo jumped from his horse and engaged one of the assailants, but stumbling fell and received a severe cut on the head. Another ruffian—and it is probable that only two presisted in the attack—rushed madly down the line, cutting and hewing on each side of him, and dealing terrible wounds at each stroke of his two-handed sword. At this moment Goto Shojiro, who, with the minister, had not yet turned the corner, seeing the confusion ahead, dismounted and ran to the front, which he reached in time to rescue Nakai Kozo from his assailant, whom between them they killed and decapitated on the spot. The second man, springing about like a wild beast and still slashing about him, was stopped at last, after nine out of eleven of the escort, one man of the ninth, and a Japanese betto, had been wounded, besides four horses. He received several wounds from lance, bayonet, sword, and pistol, but so rapid was his action, and so surprised were the objects of his attack, that he was able to take refuge in a back yard, where he was fortunately secured alive but exhausted.

Of course going on to the court was out of the question. The first care was to get the wounded men, who, one and all, behaved nobly, back to the temple. All the men behaved with the utmost steadiness—a quality greatly needed in the case of a party hemmed in narrow streets, not knowing the extent of the attack or the number of the enemeis who might have been contained among the throng who hovered around them. The doctors made such temporary shift as they could to stanch the blood, which in some cases was flowing with a rapidity that threatened to be fatal. Some time was lost

in getting coolies for those who, faint from the loss of blood, could not stick to their horses; but all of the men who were not physically incapacitated from so doing insisted pluckily on riding home. As for the prisoner, no more coolies being forthcoming, a couple of shopkeepers were pressed to carry him.

No praise is too high for the energy, kindness, and skill displayed by the surgeons in their attendance on the wounded men, and it is easy to see how the difficulties of their labors were enhanced by the total absence of skilled assistance. In an incredible short space of time the wounds were temporarily dressed and the men laid comfortably in their beds.

In the mean time a preliminary examination of the prisoner was held, who at that time was believed to be dying. He at first stated that he had no accomplices; that he was originally a priest, from a temple near Osaka; that he had come to Kioto to enlist in the shimpei, a corps which is being raised as a nucleus for the Mikado's army, and which is recruited from a class of ronins and idlers for whom the government is anxious to find employment and means of livelihood. He afterwards admitted having an accomplice, and said that they had set out to kill foreigners. On being shown the head of the man who had been decapitated by Goto Shojiro he recognized it as that of his accomplice. He said that he had never seen foreigners before. At a third examination he confessed to having three more accomplices, who were to have followed up his action, should it have failed. These men were immediately arrested.

It appears almost miraculous that two desperadoes should have dared to attack some seventy armed Englishmen, and have been able to do so much bloody mischief before they were stopped. Sir Harry Parkes had a remarkable escape. A man in front of him was severely wounded, and being himself in full uniform, and mounted on a large horse, he presented a conspicuous object for the blow aimed at him by the second ruffian, as he rushed round the corner. Fortunately the man tripped as he was in the act of delivering the blow, and falling forward he missed his aim. It took partial effect, however, on the minister's betto and on Mr. Satow's horse, which was wounded by the same cut in two places.

The betto who was near Sir Harry's side was wounded in the leg.

It is pleasing to record the action of the Mikado's government upon this occasion. Of their own spontaneous action, without demand and without prompting, they have offered every reparation in their power for the insult offered the English minister.

During the evening, messages of condolence from the Mikado himself were received by the minister, and several of the members of the court and principal Daimios, called in person, and visited the wounded men. Their sympathy and regret were evidently genuine and unaffected.

The best proof of sincerity, however, which the government has given, is the promulgation of a proclamation which makes it known throughout the empire that the Mikado regards attacks upon foreigners as infamous and detestable. Samurai who may be guilty of such a crime will be degraded, their swords will be taken from them, and their names struck off the roll of gentlemen. In grave cases they will be beheaded by the common executioner, and after death they will be subjected to the further indignity of having their heads exposed for three days. Such an act, taken in conjunction with the public evidence which the Mikado has given of his personal friendship towards foreigners, will, it may be confidently hoped, go far to root out the fanatical hatred with which a certain party in Japan regard us. It is to this spirit that the attack which we record to-day must be traced. The murderers rushed upon certain death in the exaltation of patriotic frenzy. This is evident from what fell from the prisoner, who afterwards, when he found himself being treated with the greatest kindness by those whom he had tried to kill, expressed deep contrition and shame for a crime which, up to that time, he had regarded as an act of piety.

The Japanese government having perfectly satisfied Sir Harry Parkes and those of his colleagues who were present at Kioto of their good faith and regret for what occurred, a second day was fixed for Sir Harry's audience of the Mikado. The 26th, the third day of the third Japanese month, an auspicious day was chosen, and this time, happily, nothing occurred to mar the proceedings. Extraordinary precautions had been taken by the Japanese, and an attack would have been almost impossible.

The minister was much pleased with his visit to the Mikado, who personally expressed his regret for the murderous attempt upon Sir Harry's life on the 23d.

The following day the legation left Kioto. The wounded men were carried down to Fushimi in long litters, which were transferred to the river boats that were to carry them to her Majesty's ship Adventure. At Fushimi the minister was met by a high officer of the Mikado's court, who announced to him that the prisoner had been executed that morning, and that his head and the head of the man killed by Goto Shojiro had been exposed in the manner above described. Full publicity had also been given to the sentences passed upon the prisoners. The punishment of the three accomplices was still under consideration, as the degree of their complicity had not yet been clearly ascertained.

*Mr. Van Valkenburgh to Mr. Seward.*

No. 35.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 8, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, copy of the demand of the minister of France upon the Mikado's government for the murder of eleven French sailors by retainers of Toda, the subject-matter of my dispatch No. 25 of the 11th ultimo, at which date the tenor of this demand had only been verbally communicated to me.

From inclosure No. 2, herewith, you will perceive that the ex-Prince of Toda lost no time in expressing his regret at the occurrence, and it is no doubt due to the influence of this ex-Prince that the Mikado's government was enabled to act with vigor in obtaining the satisfaction demanded, which was promptly rendered.

I transmit inclosure No. 3, copy of the report of the execution of the criminals. The money indemnity, I have been informed, was paid, and the French demand in every particular complied with.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Note addressed by the minister plenipotentiary of his Majesty the Emperor of the French, to the government of his Majesty the Mikado.*

OSAKA ROADS,
*On board the Frigate Venus, March* 12, 1868.

In satisfaction of the abominable assault committed against French sailors on the 8th March, at Sakai, by retainers of Tosa, the minister of France, in the name of the government of the Emperor, demands from the government of his Majesty the Mikado the adoption of the following measures:

1. Within three days from the receipt of this letter at Kioto, the two officers who commanded at Sakai on behalf of the Daimio of Tosa, and all those who participated in the assassination of the French sailors, shall be executed at Sakai in the presence of the Japanese authorities, and of a detachment of the naval division. The Karos of the Daimio of Tosa at Osaka shall witness the execution.

2. An indemnity of $150,000 shall be paid on behalf of the Daimio of Tosa to the French government, the interest of which fund to be applied towards the support of the families of the officer and the men who were murdered.

3. The Prince of the blood, prime minister for foreign affairs of the court of Kioto, shall come on board the Venus to offer to the representative of France and to the commander of the naval division the apologies of his government.

4. The Daimio Prince of Tosa shall in person appear on board the Venus to express his regrets and his apology for the abominable conduct of his men at Sakai.

5. Until further notice, the troops of this Daimio shall not be permitted to pass through or to be stationed in the ports opened to the foreigners.

The minister of France insists upon the full execution of these measures in the briefest possible space of time, when he will be pleased to renew with the Japanese government the relations of peace and good will so unfortunately interrupted.

LEON ROCHES.

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*Mr. Parkes to Count de la Tour, Mr. Van Valkenburgh, and Baron Brandt.*

HIOGO, *March* 14, 1868.

SIRS: I have the honor to forward for your information copy of a report I have received from Mr. Mitford, second secretary of this legation, of the manner in which the intelligence of the Sakai massacre was received at Kioto, and particularly of the marked anxiety shown by the retired Prince of Tosa to express sorrow for this barbarous act.

It appears to me that I should not hesitate to meet the wish of that Prince to make his feelings known to the foreign representatives, as his conduct in this respect strongly contrasts with that of the Prince of Bizen in the case of the outrage committed by his retainers, and it will occur to you that the foreign representatives attached an unfavorable importance to the silence of the latter Daimio.

I have the honor to be, sirs, your most obedient, humble servant,

HARRY S. PARKES.

His Excellency the COUNT DE LA TOUR.
His Excellency General VAN VALKENBURGH.
His Excellency the BARON BRANDT.

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*Mr. Mitford to Mr. Parkes.*

HIOGO, *March* 14, 1868.

SIR: Having been at Kioto, and a guest in the palace of the ex-Prince of Tosa at the time when the news of the Sakai murders arrived, I have the honor to inform you that not only the Prince and his advisers, but the representatives of several other clans have expressed to me the utmost horror at the outrage; which feeling, they have assured me, is shared by high and low throughout the capital.

A very short dispatch, announcing in general terms that an affray had taken place between some Frenchmen and the guard of Sakai supplied by the Prince of Tosa, reached Kioto at noon on the 9th instant, and caused great anxiety in the palace of the ex-Prince and in the foreign department, with two of the principal members of which I happened to be when the dispatch was delivered.

The following day full details arrived. The unanimous expressions of good feeling on the part of the fellow-clansmen of the murderers, and the assurances on the part of their superiors that so far from screening them they would bring every guilty man to justice, were very satisfactory, as affording a proof that the crime was not encouraged or countenanced by the military class, who regarded it as the act of a set of lawless ruffians, who were a disgrace to the nation and must be suppressed.

The same evening (10th) a Kugé of high rank arrived at the Tosa Palace, having been sent by the Mikado to convey to the ex-Prince a severe personal reprimand, together with the expression of his Majesty's displeasure with the whole clan.

On the following morning the ex-Prince, who was so ill as to be unable to leave his bed, sent to beg me to visit him. I did so, and remained with him nearly two hours. The Prince declared to me his detestation of the crime of which his followers had been guilty, and as I was about to return to Osaka that evening, he requested me to convey to the French minister and foreign representatives the following message, which I took down from the Prince's own mouth:

"Although I am without precise information, I am aware that the affair of Sakai was most wrong and unjustifiable. It is an affair of which I certainly had not the slightest cognizance. My own wish has been to entertain friendly relations with foreigners. The act of violence which my retainers have committed has caused me to feel deeply ashamed. I am aware that foreign nations must feel grievously incensed. It hurts me to think that my people should have interfered with the Mikado in his projects for civilizing the country. I pray that Tosa alone, and not the whole country, may be rendered responsible for this act. I have been prevented by illness from going to Osaka to punish the offenders myself, but I have sent two of my Karos, with three officers of rank, to represent me, taking with them one hundred and sixty men, (Samurai,) with orders to deliver up to justice the guilty men. I beg you to communicate the expression of my sentiments to the French minister in particular, and to the foreign representatives in general. Although the punishment of the criminals is a matter for the government of the country to deal with, I am anxious that the thoughts of my heart should be made known to the French minister and to the other representatives."

I promised the ex-Prince to deliver this message, and in fulfillment of my pledge I have the honor to request that you will be so good, should you see no objection to taking such a course, as to communicate it to your colleagues.

The ex-Prince further begged that I would let it be known as widely as possible that he and his advisers were profoundly horrified by what had occurred.

At a second interview, which I had with the ex-Prince a few hours later, he again spoke in the same sense.

I have, &c.,

A. B. MITFORD.

Sir HARRY S. PARKES, K. C. B.

CORVETTE DUPLEIX,
*Sakai Roads, March* 16, 1868.

SIR: In pursuance of the authority conferred upon me by yourself and the minister of France on board of the Venus, on learning that, contrary to the agreement, the Japanese had notified the lieutenant in command of the forces landed that the execution would not take place on the wharf, but in a temple at some distance from the landing-place, and that it would only be witnessed by officers, I proceeded to Sakai to arrange this matter, in order that the reparation might be rendered during that day. It was half-past 3 o'clock p. m. when I landed. I found our men waiting—the people kept back and quiet—and also Mr. Godoi, whom I at once informed that I had come to witness the execution, and that I intended only to take a few men with me. Perceiving that only ten marines were preparing to accompany me, he requested me to take twenty men, and I then left with him, and accompanied by Lieutenant Blot, of the Venus, Interpreter Van du Noo, and Midshipman Lorimer, of the Dupleix.

I left instructions for the remaining forces to wait, under the orders of Ensign Humann; to embark at the first sign of excitement among the people, and for the armed boats, under the orders of Lieutenant de Tesson and Ensign Paris, to take position so as to cover with their howitzers the return of the men to the boats.

Mr. Godoi led the way, and took us to a large pagoda, at a distance of more than one mile from the landing-place, after passing through the town and through immense crowds of people, who were perfectly silent.

The preparations had all been made, and a place had been reserved for us on a sort of platform next to another one occupied by the Japanese authorities, whom Mr. Godoi joined after leaving an interpreter with us.

Soon the execution began; each man was beheaded on a place just opposite to us. Great excitement prevailed when the first two officers were executed; but this gradually calmed down, and then the most profound silence reigned in its stead. It was soon very evident, in my opinion, that the Japanese government was fully resolved to carry out their engagement to the end.

Meanwhile it was getting late; the weather was threatening, and I deemed it important to join the boats again, so that our men might be aboard before dark. To demand the postponement to the next day of the execution of the men that remained did not appear practicable. I determined, therefore, as soon as the eleventh head should have fallen, to inform Mr. Godoi that in view of the manner in which the engagement had been kept, I begged him to suspend the execution until I could have communicated with the minister of France, who I hoped would be pleased to consent that the men remaining should be placed at the disposal of the Japanese government, with the view of a commutation of sentence.

As soon as this determination was made known Mr. Godoi, all the assistants, and particularly the Japanese officer who presided at this mournful ceremony, appeared greatly moved. The latter, however, requested me, in case the slightest doubt existed in my mind in regard to the French minister's decision, to allow justice to follow its course, as everything was ready and the men were prepared to die, and at all events to let him know as soon as possible. I then requested Mr. Godoi to accompany me on board the Venus to bring the answer back; and we then all left the pagoda, passed through the town without scarcely meeting any one, as we were not expected at that hour.

Everything had remained quiet at the wharf. The men got into their boats; the order was given to return to the ship. You are aware that it was pitch dark and the sea quite rough when I arrived on board your ship in the steam launch with Mr. Godoi.

The foregoing is a statement of this afternoon's proceedings. I am aware I have assumed a grave responsibility by interrupting the course of reparation demanded by the minister of France; but I think I did my duty towards my country by assuring the return on board of all the men under my command, when the blood of the criminals had freely flown, and by showing to the Japanese that while we are strong enough to obtain what is due to us at any time of our own choosing, we are also prepared to meet their desire to maintain good relations with us by an exhibition of moderation on our part.

I have the honor, &c.,

BERGASSE DE PETIT THOUARS.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 36.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 8, 1868.

SIR: I have the honor to transmit herewith, inclosure No. 1, copy of a proclamation issued by the Mikado, declaring the Tycoon and a num-

ber of Daimios and others in rebellion, and depriving them of office and rank. This proclamation was known in the latter part of February, but it was not then sufficiently authenticated, and it now appears to have really been issued.

The Tycoon or late Tycoon Tokugawa Yoshinobu made a statement of the course he intends to pursue to the French minister for the information of himself and colleagues, a copy of which, inclosure No. 2, is herewith transmitted.

Inclosure No. 3 is a garbled translation of a communication informally furnished by agents of the Yedo government to the public prints of this port for general information. It purports to be an expression of public opinion in Yedo.

Inclosure No. 4 is a notice by the English minister, publishing a proclamation of the Mikado's government, according to which Japanese committing assaults upon foreigners will hereafter not only be punished, but also disgraced. Similar communications were also made by the representatives of France and Holland. Those for the representatives of Prussia, Italy, and myself will have been received at our respective consulates at Hiogo, and will no doubt reach here by the first vessel now expected at an early day, as no intelligence from that quarter has been received at this port since the return of the three representatives first named.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Proclamations by the Mikado.*

[Translation.]

In consequence of the return to the government by the court and of his Majesty's coming of age being celebrated this day, the 15th of the first month, (February 8,) his Majesty desires, out of his great benevolence, to make a guiltless country of this empire, and therefore proclaims an amnesty to all unpardoned criminals, except rebels against his Majesty, the benefits of which are to be extended throughout all the provinces without exception; and as his Majesty intends in future to confer rewards and inflict penalties rigidly and impartially, it is hereby ordered that all bear this his will strictly in mind, and see that it is carried out.

FEBRUARY 8, 1868.

Tokugawa Yoshinobu, taking into consideration the inevitable pressure of the political condition of the empire, petitioned to be allowed to return the government, and to resign the office of Shôgun; which permission was accorded to him after an imperial council. But as it was impossible for his Majesty to fulfill his high office unless he possessed dominions and subjects, his Majesty deputed the clans of Owari and Echizen to ask for a material proof of his sincerity. Yoshinobu replied through Owari and Echizen, that he was willing to comply, but that as his retainers and the men of Aidzu and Kuwana objected, he felt anxious lest they should commit some act of violence, and was exerting all his influence to keep them in check. The imperial court, believing that Yoshinobu was really in an obedient frame of mind, decreed that he should be dealt with liberally, without any reference to the offenses of the past. But contrary to expectation, his retiring to the castle of Osaka being merely a lying stratagem, on the 27th of January he led his troops against the imperial capital, actually sending Aidzu and Kuwana, who had been dismissed by his Majesty, to lead the van. It is thus plain that hostilities were begun by him, and therefore that Yoshinobu is in open rebellion. This and the continual deception practiced on the imperial court are traitorous and unprincipled acts, and the patience of the imperial court being entirely exhausted, it is unavoidably necessary to decree his punishment. As his Majesty desires, now that hostilities have broken out, to subdue the rebel hordes at once, and to rescue the nation from its misery Ninnaji No Miya has been appointed commander-

in-chief of the subjugating forces. Therefore, all those who have hitherto indulged in sloth and supineness or have hesitated between two courses of action, or even those who have followed the rebels, or have been retainers to them, upon repenting and serving the state with zeal, shall be treated mercifully and employed in the imperial service. If they should distinguish themselves in battle, any petitions they may present on behalf of the Yokugawa family will receive such consideration as they may merit. But those who, in the present state of affairs, disregard the first principles of duty, and plot in concert with the rebels, or afford shelter to them, shall be looked upon as enemies of the Emporer, and visited with severe punishment. Therefore let this be borne strictly in mind.

NOTE.—The commander-in-chief of the subjugating forces having been appointed, the above orders should, as a matter of course, have been issued at once. But his Majesty had delayed doing so under the impression that this action had been originally caused by the instigations of the violent among his (Yoshinobu's) retainers. As fresh men, however, were continuously brought up during the four days, from the 27th to 31st January, in spite of the daily defeat of the Osaka forces, his Majesty has been compelled to take the resolution of issuing the above order. Let the retainers, officers, and soldiers of every clan make up their minds and do service for the cause of the state: Tokugawa Yoshinobu, Aidzu of Oshin, (Matsudaira Higo No Kami,) Kuyana of Ise, (Matsudaira Ecchiu No Kami,) Takamatsu of Sanuki, (Matsudaira Sanuki No Kami,) Matsuyama of Iyo, (Matsudaira Iyo No Kami,) Matsuyama of Bitchiu, (Itakura Iga No Kami,) Otaki of Kadzusa, (Matsudaira Buzen No Kami,) Wakadoshiyori Nagai Gemba No Kami, Wakadoshiyori Nami, Hirayama Dzusho No Kami, Takenaka Tango No Kami, Tsukahara Tajima No Kami, Onetsuke Togawa Idzu No Kami, Matsudaira Osumi No Kami, Metsuke Shimmi Sagami No Kami, Shidara Bitchiu No Kami, Enomoto Tsushima No Kami, Makino Tosa No Kami, Okabe Hizen No Kami, Okubô Shiuzen No Kami, Oguri Shimôsa No Kami, Hoshino Bungo No Kami, Takato Kazoya No Kami, Ogasawara Kawachi No Kami, Okubô Chikugo No Kami, Okubô Noto No Kami, Toda Higo No Kami, Takara Kai No Kami.

It is ordered that Yoshinobu be proceeded against, in consequence of his practicing deceit upon the imperial court, committing open rebellion, and resorting to arms. These persons are evidently confederates in his rebellion, and therefore traitors. They are deprived of their office and rank: Aidzu of Oshiu, Kuwana of Ise, Takamatsu of Sanuki, Matsuyama of Iyo, Matsuyama of Bitchiu, Otaki of Kadzusa.

As these persons are undoubtedly accomplices of Yoshinobu, in his rebellion, it is ordered that their yashikis be confiscated and the remains of their forces pursued.

NOTE.—The remains of their forces are to be sent over to the hostile lines: Obama of Wakasa, (Sakai Wakasa No Kami,) Ogaki of Mino, (Toda Uneme No Sho,) Toba of Shima, (Inagaki Heiyomon,) Miyadzu of Tango, (Matsudaira Iyo No Kami, (Hoki No Kami,) Nobeoka of Fiinga Bingo, (Naita No Kami.)

The above named lie under suspicion, and are, therefore, forbidden to enter Kioto.

FEBRUARY 8, 1868.

These clans having hitherto behaved in a manner not calculated to inspire confidence, have been forbidden to enter Kioto; but having, by subsequent acts, somewhat atoned for their offenses, they are ordered to lead the van in the expeditions which the commanders appointed to reduce the rebels will command in the Hokurikedo and Tozando, (provinces of the northwest and east coasts;) and if they are successful they will be specially rewarded; and they are ordered to bear this in mind.

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*Resumé of the statement of the Tycoon to M. Leon Roches on the occasion of his interview with this prince at Yedo on the 20th February, 1868, signed L. R.*

In view of the important and unforeseen circumstances which so suddenly changed the political situation in Japan, a due regard for my honor and for my duty towards the foreign powers with whom I have concluded treaties prescribe the obligation to frankly and fully explain the course I have pursued during the recent occurrences, the course I shall henceforward pursue, and the motives which guided me and shall continue to guide my action.

The government which gave peace and prosperity to Japan during a period of two hundred and fifty years, as long as the empire kept aloof from the general movement of nations and declined any relations whatever with foreign powers, has ceased to be a practical government from the day when these relations became binding by treaties.

In vain did my predecessors endeavor to maintain our ancient customs; every day brought fresh proof of the insufficiency of our ancient laws to meet the requirements of the new state of things in which we found ourselves. I accepted the power which had been regularly delegated to me in virtue of the same laws, but with the firm resolve

to reform the constitution of the empire so as to bring it as far as possible into harmony with the spirit of the age.

My first duty was to faithfully carry out the treaties and conventions concluded with the treaty powers; I have done so, notwithstanding the obstacles of every description, which it is unnecessary to enumerate. When that duty was performed, I have spontaneously, and without the slightest pressure, placed the power I held from my ancestors into the hands of the Mikado, praying him to consult the nation on the new form of government it might be convenient to adopt.

The Mikado, placed, in accordance with the last will of his illustrious predecessor and father, under the guardianship of a council of regency, accepted my humble proposal, and instructed me to continue at the head of the government of the empire until a decision should have been taken on the subject by the majority of Daimios, who were called to Kioto for the purpose.

I awaited the expressions of the supreme will of the grand council of Tensho, (without any apprehension or after thought,) firmly resolved to remain on legal ground and to submit to the wishes of the nation, consulted in due form, when two or three Daimios, aware that my loyalty and disinterestedness upset their ambitious projects, by means of stratagem and violence took possession of the gates of the imperial palace, forcibly removed the regency council which represented the last Mikado during the minority of the young Emperor, and established a new council, composed of former dignitaries of the imperial court who had been banished therefrom for guilty conduct.

In view of such a violation of the laws and of justice, my allies and my followers prayed my permission to fight the authors of these crimes. I resisted their prayer and returned from Osaka, determined to avoid as much as possible the shedding of Japanese blood.

In the mean time criminals were overrunning the province of Yedo, and even penetrated into our capital, where they committed robberies and murders, frightening our peaceable population; and they found a safe refuge in the palace of Satsuma. The government would have failed in their duty towards the people if they had any longer tolerated such a state of things. The representatives of Satsuma were summoned to deliver the robbers. To this just demand they replied with musket shots. The government was obliged to use force, and among the criminals that were killed or taken prisoners evidence was obtained of the direct participation of that Daimio in the criminal acts that had been punished.

The same measures had to be taken at Hiogo and Osaka against the vessels and residences of Satsuma, in which some of the criminals had taken refuge, and where they had deposited their booty.

At this time I had determined to proceed to Kioto, whither I was called by a large number of Daimios, who for that purpose had sent to me the princes of Owari and Etchizen. My only object was to remove from the imperial precincts the bold men who had taken possession of the young sovereign, and who in his name issued decrees, the legality of which I could not admit.

I had reason to rely upon the co-operation of the great lords of the empire, who had been summoned to deliberate peaceably upon the reorganization of a regular government, and who told me they were extremely grieved to witness acts of violence and rebellion. My forces then left on the 27th of January for Kioto under the command of a Gorogio and Wakatosi Yosi, instructed to precede me to the capital. Apprehending no immediate hostilities, my army had made no arrangements for battle; when it was suddenly attacked by the united forces of Satsuma and Nagato. The occurrences on the following day are of such overwhelming sadness that I am unequal to the task of relating them here. On the one hand heroism and devotedness, on the other hand I have to deplore weakness and treachery.

Against my wishes I felt myself obliged to hasten my return to Yedo, where my presence alone could maintain order and tranquillity. I had taken all measures in my power to defend my castle at Osaka and to retain possession of the city and of Hiogo. My instructions, alas! were not carried out, and those who judge things from appearances may have been mistaken in regard to my actions and my motives.

My mind and my heart are unchanged. As long as I live I shall remain faithful to my duties and towards the sacred sovereign of Japan and towards my people, but I shall energetically maintain the inalienable rights of law and order, and of the Tokugawa family, of which I am the legitimate chief.

I shall carry out the treaties concluded with the foreign powers according to the letter and spirit. I shall improve them in a more liberal sense, and I shall await the hour when personal ambition shall be superseded by the feelings of patriotism, which must animate all the true sons of Japan.

I have made all personal sacrifices consistent with my desires to avoid the calamities of civil war. There is a limit, however, to forbearance—the limit of right and justice. I shall lay down my life, if need be, to defend them, but I shall always be prepared to listen to my adversaries whenever they shall return to legal courses. Such has been my conduct, and so shall it remain; such are the true and unvarnished facts.

The situation appears to be quite clearly defined. I appeal to the feeling of right and justice by which the foreign powers are animated, and I rely, if not on their co-operation, at least on their esteem and sympathy. The good faith of my actions hitherto, and of my intentions for the future, lead me confidently to hope that this appeal will be favorably received.

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[Translation.]

*A proclamation issued by the voters of Yedo expressing the public and general opinion.*

Since the Tycoon met with reverses at Osaka, and his subsequent return to this city, it would seem that he has lost the government of the south, and consequently there exists at the present moment in Japan two governments—north and south. According to the resolution of the Tycoon he will not declare war against the Mikado—the Mikado being the Tycoon's master—even though he was strongly advised by his followers to take up arms. But we must all understand that the Mikado is a small boy, of indolent character, and what is more, he is a prisoner in the hands of the revolted southern Daimios. The Tycoon should, therefore, rescue him from his captivity and secure his future happiness, and he should never submit to revolt and rebellion. In a word, the Tycoon should demand the reality of his position, not in name, but in fact. Even though war has been declared by the Mikado himself, the Tycoon has the perfect right to resist, for the following reasons:

1. As the protector of our power and prestige, which are important for the constitution of Japan. The Mikado's government has instructed the princes of In-siyu and Bizen to take up arms against the Tycoon, notwithstanding the Tycoon being the elder brother of In-siyu and a relation of Bizen. The Mikado's government has also issued similar orders to the Daimios To-do and Hiconi, both being ancient retainers of the Tokugawa family. These orders are contrary to our prestige, which the government should exert itself to maintain. Our prestige being lost and the supreme power falling to the southern Daimios, we shall relapse into a barbarous and disordered condition.

2. For the honor of the Tokugawa family, whose reign has now existed for over three centuries. Is its supreme power to be lost in one battle, and its hereditary merit and honor to be quite destroyed? Every one will say that the Yedo people have no military prestige and that they are afraid of the southern Daimios. What will be said regarding us by foreigners? What will become of the treaties? What will be written in the history of Japan? In every case the Tycoon should declare war and resist the Kioto schemes.

3. For the welfare of the Japanese. Every one knows that Satsuma and Chosin are not good friends—they are only allied to oppose the Tycoon, should they succeed in obtaining the supreme power in the name of the Mikado, who may be sure that civil war will break out very soon among the allies, who know that the confederation is not in power to maintain peace for long.

4. For securing the commercial interest of both Japanese and foreigners. While the cities of Hiogo and Osaka are governed by the confederate Daimios no commerce will exist, for the reason that no one places trust in the said Daimios; for the same reason, at present, in Yokohama the commercial interest as regards foreigners is declining, because the Tycoon will yield that city to the Mikado. Should the Tycoon decide to oppose his enemies, we trust that commerce would once more increase.

As the representatives of the Yedo people we now declare for the Tycoon, and advise him to send an army to Osaka as soon as he can. If the Tycoon declines to accept our votes and follow our advice, we shall no longer call ourselves his subjects, but will call ourselves old friends of the Tokugawa family. In such case we will summon our volunteers and will defend this city, and reoccupy the cities which the Tycoon has lost. Briefly, in a word, we will show our enemies what we are, and what we can do for the Tokugawa clan.

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*Notification.*

HER BRITANNIC MAJESTY'S LEGATION,
*Hiogo, March* 29, 1868.

The undersigned hereby publishes for general information the annexed translation of a dispatch from the foreign ministers of the Mikado, inclosing a decree which has been issued by his Majesty's government, relative to attacks upon foreigners.

HARRY S. PARKES,
***Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.***

[Translation.]

MARCH 27, 1868.

SIR: In accordance with the orders of the Sôsai, we beg to forward to you draft of the proclamation which is to be notified, in accordance with the arrangement made with you, throughout the country and exhibited on the public notice boards for the information of Japanese subjects, respecting the infliction of penalties on persons guilty of violence towards foreigners.

We have, &c.,

HIGASHI KUZE SAKI NO SHOSHO.
UWAJIMA SHOSHO.
HIZEN JIJIN.

His Excellency Sir HARRY S. PARKES, K. C. B., *&c.*, *&c.*, *&c.*

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[Inclosure.]

It having been decreed, in consequence of the late reformation by which the monarchical government is restored, and in order to the maintenance of just principles by the imperial court, that his Majesty should have relations with foreign countries, the imperial court will direct those relations, and will fulfill the treaties in accordance with the rules of international law. It is therefore ordered that the whole nation do obey his Majesty's will, and act in accordance therewith.

All persons in future guilty of murdering foreigners, or of committing any acts of violence towards them, will be not only acting in opposition to his Majesty's express orders, and be the cause of national misfortune, but also committing the heinous offense of causing the national dignity and good faith to suffer in the eyes of the treaty powers, with whom his Majesty has declared himself bound by relations of amity. Such offenders shall be punished in proportion to the gravity of the offense, their names, if they be Samurai, being erased from the roll. And it is hereby rigidly decreed that all persons shall obey this imperial order and abstain from all such acts of violence.

MARCH 28, 1868.

Translated by Ernest Satow.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 37.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 10, 1868.

SIR: I have the honor to transmit herewith No. 1, copy of a public notice issued by the Japanese acting governor of Hiogo in regard to the circulation of the Mexican dollar at that port, and No. 2, copy of another public notice granting the concession to foreign merchants to lease or erect buildings in the northern part of Hiogo, called Kobé, situated in close proximity to the site selected for the foreign settlement at that port, which, owing to the present disturbances in this country, will necessarily have to remain incompletely prepared for foreign occupation for some time.

I have the honor to be, sir, very respectfully, your obedient servant,
R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

HIOGO, *March* 30, 1868.

SIR: I have the honor to inform you that a notification having been issued by the government to all Japanese subjects that the Mexican dollar is to pass current at the rate of three bus per dollar, in future there will be no difficulty whatever in its circulation at this rate in mercantile transactions between foreigners and Japanese.

In this relation I have further been instructed by my government to inform you that their intention of changing dollars at this port at the rate of three bus for the future, instead of at the rate at which they have hitherto been exchanged, was represented to the ministers of France, England, and Holland by members of the Mikado's government at Kioto, on the 26th instant, and that this intention was approved by the said three ministers.

With respect,

ITO SHUNSKE.

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[Translation.]

MARCH 30, 1868.

SIR: I have the honor to inform you that, in accordance with an arrangement concluded at Kioto on the 26th instant, between the Mikado's government and the representatives of France, England, and Holland, foreigners and Japanese may in future make arrangements between themselves, and at their own convenience, for leasing land or houses at this port; and that having purchased houses, foreigners are at liberty to take them down and erect others themselves within the following boundaries, namely, from the Ikuta-gawa on the east to the Uji-Kawa on the west, and from the hills on the north to the beach on the south.

From this arrangement, however, must be excepted the concession ground prepared under the convention of May, 1867, for the use of foreigners, and also a strip of land of one hundred feet in width along the whole beach to the west of the settlement, which must be preserved as a public thoroughfare.

This line of beach will be gradually cleared of the timber at present placed there, and foreigners should also remove the few temporary constructions they have recently put up on the said beach line as soon as they are called upon to do so by the Japanese authorities through their respective consuls.

When a foreigner and Japanese have made an agreement for leasing ground or purchasing houses within these limits, each agreement must be reported by the respective parties to the Japanese authorities and to the consul of the nation concerned, in order that the agreement may be sealed and registered on both sides, as a proof of validity.

All foreigners occupying ground or houses within the said limits will be liable to the payment of the same municipal charges, or government land tax, as are paid by Japanese.

With respect,

ITO SHUNSKE.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 38.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 14, 1868.

SIR: The Daimio's forces referred to in my dispatch No. 32, of the 2d instant, forming the advance of the Mikado's army, have slowly marched toward Yedo, taking possession, as they proceeded, of the various stations on the Tokaido or main road, the Tycoon's officials in charge quietly retiring before them.

The first men of this advance are reported to have arrived in Yedo on the 5th instant; others soon followed also by the other roads, and their number this day in that capital is variously estimated at from three to ten thousand men. They belong to the Daimios of Satsuma, Choshin, Bezen, Omura, and a few others of inferior rank, and are scattered all over that city.

The Tycoon remains in the temple of Wuyeno; he is said to have a strong and well-appointed guard for his protection.

Shortly after the arrival of the first men of this advance the people began moving away; the women and children were being sent into the country.

The behavior of these first men is reported to have been overbearing in the extreme; they helped themselves freely to whatever they needed without paying for such purchases. The people, on making complaint to

their authorities, were assured that "all would soon be well;" their losses were properly authenticated, and claims filed in due form. The impression prevailed that as soon as the Mikado's envoy should make his appearance with the main body of his forces a satisfactory arrangement of some kind would soon be arrived at. But the envoy has now for nearly two weeks remained in the castle of Futshu, in the province of Swuaga, some seventy miles from Yedo, and at some twenty miles to the westward of the Hacone Pass, and it is surmised that the arrangement in contemplation in Yedo, the furthermost point from his base of operations, might not be satisfactory to him, and that he prefers to await developments on his own side of that Hacone Pass.

From a good source I learned that two of this envoy's lieutenants arrived in Yedo, and that a demand had been made on the Tycoon to surrender his castle, an immense inclosure of some six miles in circumference, and situated in the center of the city; further, to surrender his army, his navy, and his treasury, his own person to be placed in charge of the Prince of Bezen, and all his own people to vacate their houses and to withdraw to certain named outskirts of Yedo.

These extravagant demands have not been complied with, and as yet no collision has taken place. The people continued sending their women and children away until the 10th instant, when, during the afternoon of that day, word was passed that there would be no fighting in Yedo, and that there was no cause for alarm. This change must have been caused by the intelligence brought by the Mia Sama, a relative of the Mikado and a friend of the Tycoon, who, on behalf of the latter, proceeded to Kioto some time ago, and whose return to Yedo took place on the next day, the 11th instant. As soon as it became known, however, that the Mia Sama, or high priest, did not intend to remain in Yedo, but to proceed northward without delay, the removal from that city by the people became greater than ever. Should this continue at the present rate, there will be scarcely any one left in Yedo within a few days but men, and it is not unreasonable to expect that there will then be an outbreak.

From Kioto and Osaka rumors reached here that the Mikado had been carried off by the Prince of Kshü and confederates. This is the same prince, a member of the Tokugawa family, in whose favor the Tycoon intended to abdicate. This rumor is not credited, though it reached here from an apparently reliable source.

Something, however, has no doubt occurred in that part of Japan, as the rumors of frequent fighting in the vicinity of Kioto have come in during the last three days persistently and repeatedly, and it is not improbable that the evident hesitation of the envoy to march on Yedo may be caused by the state of affairs in his rear, which is reported as deplorable and disorganized in the extreme.

The foregoing is intelligence received through sources as reliable as can be found in this country, and, of course not official, as there is apparently no government with whom any intercourse can be carried on.

The governors of this port are still at their post, and in Yedo there are local authorities directing, only as far as known, the municipal affairs in that city.

The arrival of the Stonewall is now daily looked for. The Monocacy and Iroquois are both in port. No intelligence from Hiogo and Nagasaki has been received here for some time.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 39.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 18, 1868.

SIR: In supplement to my dispatch No. 32, of the 2d instant, informing you that with the view of preventing large bodies of armed men from visiting this town in the present unsettled state of this country, a system of passports had been agreed upon, I now have the honor to transmit inclosure No. 1, copy of a resolution unanimously adopted by the foreign representatives, having for its object the better enforcement of the system referred to, by preventing the landing of armed Japanese along the water front of Yokohama.

I transmit inclosure No. 2, copy of my letter to Commander Carter, the senior naval officer, in pursuance of that resolution, and No. 3, copy of his reply.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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YOKOHAMA, *April* 17, 1868.

The undersigned representatives, having this day met, unanimously adopted the following resolution:

*Resolved*, That in consequence of the arrival in this harbor of Japanese steamers carrying large numbers of troops, the naval and military officers of the respective forces be requested to take, as soon as possible, such measures as are necessary to prevent the landing of armed Japanese along the water front of Yokohama.

L. ROCHES.
HARRY S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. VON BRANDT.
D. DE GRAEFF VON POLSBROECK.

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*Mr. Van Valkenburgh to Commodore Carter.*

No. 48.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, April* 17, 1868.

SIR: At a meeting of the representatives of the treaty powers, held this afternoon, the following resolution was unanimously adopted:

"*Resolved*, That in consequence of the arrival in this harbor of Japanese steamers carrying large numbers of troops, the naval and military officers of the respective forces be requested to take, as soon as possible, such measures as are necessary to prevent the landing of armed Japanese along the water front of Yokohama."

Will you please co-operate with your colleagues in carrying out this resolution?

I am, sir, very respectfully, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander S. P. CARTER,
*Senior U. S. Naval Officer Commanding U. S. Steamer Monocacy.*

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UNITED STATES STEAMER MONOCACY,
*Yokohama, April* 18, 1868.

GENERAL: I have the honor to acknowledge your communication of the 17th instant, advising me, as senior officer of the United States naval force in this port, of the resolu-

tion unanimously adopted by the representatives of the treaty powers at a meeting held by them on that day. In compliance with your wish I met the senior officers of the English, French, and Prussian vessels this afternoon on board her Britannic Majesty's ship Rodney, and have the honor to inclose a copy of the resolutions adopted in the conference.

The guard of United States marines will be moved to the hatoba, in front of the custom-house, at once, or as soon as the Japanese guard is detailed for the posts, as proposed.

I am, general, respectfully, your obedient servant,

S. P. CARTER,
*Commander and Senior Officer in Port.*

General R. B. VAN VALKENBURGH,
*United States Minister Resident in Japan.*

The undersigned, at a conference held on board her Britannic Majesty's ship Rodney, having had under consideration the proposal of the foreign representatives, that measures shall be conjointly arranged to prevent the landing of armed men from the Japanese steamers arriving at Yokohama, resolve as follows:

1. That passes should be granted to the commanders of Japanese vessels arriving at this anchorage similar to those given to the governor of Kanagawa.
2. That the native authorities be solicited to station a guard at the French and English hatobas, with instructions to prevent the landing of armed Japanese who are unprovided with passes.
3. That this native guard shall be supported at the French hatoba by the marines stationed at the French hospital, and at the English hatoba by the American marines stationed at No. 7 guard.

The above regulations appear to the undersigned sufficient for the present. They cannot suggest measures that would completely prevent the landing of armed Japanese along the whole course of the Bund without assuming an aggressive attitude.

HENRY KEPPOL,
*Vice-Admiral and Commander-in-chief of H. B. M. Naval Forces.*
ROY,
*Commodore his Imperial Majesty's Ship Venus.*
KUHN,
*Captain his Prussian Majesty's Ship Vineta.*
S. P. CARTER,
*Commander United States Steamer Monocacy.*
CHANDOS S. STANHOPE,
*Captain her Britannic Majesty's Ship Ocean.*

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 40.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 19, 1868.

SIR: With the double view of testing the strength of the authority of the Mikado's government in this part of Japan, and of promoting Japanese homogeneity in so far as foreign interests are concerned, the foreign representatives agreed upon addressing a letter to the government at Kioto, asking for the appointment of responsible agents with whom the business of this port could be conducted.

I transmit inclosures No. 1, copy of this letter, and No. 2, copy of the reply, announcing that the appointment as requested had been made.

At the request of his colleagues, the British minister addressed a letter to Mr. Mitford, the second secretary of her Britannic Majesty's legation, then at Osaka, instructing him to deliver this letter and transmit the reply. A copy of which letter is herewith transmitted, inclosure No. 3. I also transmit inclosure No. 4, copy of a letter to the senior English naval officer, asking him to send a ship to Hiogo for the conveyance of

Mr. Brin, the French secretary of legation and the bearer of the letters to the Mikado's government, and Mr. Mitford.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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YOKOHAMA, *April* 4, 1868.

The undersigned, representatives of the treaty powers, recently received at Hiogo from the government of the Mikado the formal assurance that the town of Yokohama and the interests of foreign nations at that port would be scrupulously respected by the troops of his Majesty. It has been proved, however, by the experience of the last few days, that, notwithstanding the friendly disposition of the officers commanding the advanced forces of the Mikado, they are not able, in conducting the movements of those forces, to remove all cause of apprehension for the safety of the foreign residents at Yokohama. The present governor has declared to the foreign representatives that he is ready to deliver over the town to the government of the Mikado upon being called upon by the latter to do so; but no high functionary has yet appeared to make this demand in the Mikado's name, or to furnish information to the undersigned as to the manner in which the transfer is to be effected. In consequence of the insecurity occasioned by this unsettled condition of affairs, the undersigned have been obliged to adopt measures for the protection of their respective citizens and subjects, which they would be glad to discontinue as soon as they can feel assured of the safety of their countrymen by the establishment at this port of an efficient native administration.

The undersigned therefore request the government of the Mikado to dispatch a minister of foreign affairs to Yokohama to take the necessary measures for restoring order and security at this port, and to furnish the undersigned with regular means of communication with the Mikado's government.

The undersigned entertain the conviction that the present governor of Yokohama is prepared to hand over the government to the officer authorized by the Mikado to receive it, on condition that he shall be allowed to retire quietly from the place with such officers and men as he may wish to take with him.

The undersigned, &c.,

LEON ROCHES.
HARRY S. PARKES.
CTE. DE LA TOUR.
R. B. VAN VALKENBURGH.
M. V. BRANDT.

Their Excellencies the MINISTERS FOR FOREIGN AFFAIRS, *Osaka.*

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[Translation.]

YOUR EXCELLENCIES: Your dispatch announcing the events consequent upon the arrival of the advance squad of the imperial forces in the vicinity of Yokohama, and requesting that persons may be sent to Yokohama at once to receive possession, as the chief officer of the late bakufa at that place has declared himself ready to hand over as soon as a governor, by the Mikado's government, has been received.

In accordance with your request, Higashi Kuze Suki No Shosho and Hizen Irjin have been appointed governors. They will start in a few days, in a Saga steamer, accompanied by the following officers: Isaki Sai Yomon, (sanyo,) Okuma Hachitaro, (sanyo,) and Mutsa Yonosuke, with a body of troops attached. Until these troops arrive we beg your excellencies to take such measures as are necessary.

We have, &c.,

DATE SHOSHO.
SANYO SAKI NO CHUINAGOU.

Their Excellencies Monsieur LEON ROCHES,
*Minister of France.*
Sir HARRY S. PARKES,
*Her Britannic Majesty's Envoy Extraordinary.*
Monsieur LE COMTE DE LA TOUR,
*His Imperial Majesty's Envoy Extraordinary.*
General R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*
Monsieur VON BRANDT,
*Chargé d'Affaires of Prussia.*

YOKOHAMA, *April* 4, 1868.

SIR: I have to inform you that, upon the joint request of the representatives of the treaty powers, her Majesty's ship Rattler is dispatched to Hiogo, with the inclosed dispatch to the Mikado's ministers for foreign affairs, which I have to intrust you to deliver at Osaka to a minister of the foreign department.

In giving effect to this instruction you will act in concert with Baron Brin, of the French legation, who proceeds to Hiogo on this service, in her Majesty's ship Rattler. You will impress upon the minister with whom you may communicate the great importance which the foreign representatives attach to the prompt arrival, at Yokohama, of one of the foreign ministers of the Mikado's government, invested with sufficient authority to secure order at this port, and to dispose of the pressing questions relating to its foreign trade which have to be considered.

The foreign representatives trust that the Mikado's government will furnish you with an immediate reply to this dispatch, but they do not think it desirable that you should wait for the answer beyond, or at the outside, five days from the delivery of the dispatch into the hands of the Mikado's minister.

In case you should be of opinion that a delay of this length would not be attended with commensurate advantage, you should advise the senior officer at Hiogo to send her Majesty's ship Rattler back to Yokohama, with your report, as soon as she can conveniently be dispatched.

In case one of the Mikado's ministers should be willing to come to Yokohama at once by sea, and you and Mr. Brin should be of opinion that his movements would be expedited by offering him the safe conduct of her Majesty's ship, the foreign representatives are of opinion that it would be desirable to give him convoy, if the minister himself wishes it, from Hiogo or Osaka to this port, provided that he and his retinue travel in a single steam vessel under the Japanese flag, and do not exceed in number about two hundred men.

If the political agent of the Netherlands should still be at Osaka at the time this dispatch reaches you, you should invite him, on the part of the other foreign ministers, to join in this communication to the Mikado's government.

I inclose copy of my application to Captain Stanhope, the senior naval officer in Japan, for the services of the ship which is dispatched on this duty.

I am, &c.,

HARRY S. PARKES.

A. B. MITFORD, Esq., *Osaka.*

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YOKOHAMA, *April* 4, 1868.

SIR: I have the honor to request you to direct one of her Majesty's ships to proceed at once to Hiogo, to deliver to Mr. Mitford the accompanying dispatches with the least possible delay.

I have also to beg that you will allow Baron Brin, attaché to the French legation, to be furnished with a passage to Hiogo by the same opportunity.

Mr. Mitford and Baron Brin are charged by the representatives of the treaty powers to deliver a communication to the foreign ministers of the Mikado's government, and to ask for a reply. The commanding officer of the ship dispatched on this service should, therefore, be instructed to return here as soon as Mr. Mitford announces to the senior officer at Hiogo the termination of the negotiation, and I have to request that Baron Brin may be furnished with a return passage.

In case one of the Mikado's ministers should determine to come to Yokohama, and should apply through Mr. Mitford for convoy to Yokohama, I have to request that the commanding officer of the ship sent on this service may comply with this application, provided that the minister and his retinue travel in a single steam vessel under the Japanese flag.

Mr. Mitford will be able to advise the senior officer at Hiogo as to the most convenient date for the return of her Majesty's ship, but I trust that her detention at Hiogo or Osaka will not exceed five or six days.

I have, &c.,

HARRY S. PARKES.

Captain STANHOPE, *Senior Naval Officer.*

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 41.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 23, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, (printed.) five documents marked A, B, C, D, and E, respectively, which are sufficiently authentic, though not furnished officially.

The first one of these documents, (A,) in relation to the construction of the new government, and giving the names and the functions of the members who compose it, is particularly interesting at this time.

Whatever remained of a government in Yedo has, to all appearances, entirely subsided.

To-day the envoy of the Mikado, Hashimoto No Shosho, passed through Kanagawa on his way to Yedo, where he will arrive this evening. As he is known to be of high rank, and to have been furnished with full powers, it is to be hoped that Takugawa Yoshinobu, the late Tycoon, will be able to arrive at a satisfactory understanding with him, and that a peaceful termination of the present difficulties will be the result, though the approach of this personage has already caused much excitement among the people in Yedo during the last two days.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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B.

[Translation from the Kioto government Gazette, of March, 1868.]

*Memorial to the Daijokan, (government.)*

The undersigned, servants of the Crown, respectfully believe that from ancient times decisions upon important questions concerning the welfare of the empire were arrived at after consideration of the actual political condition and its necessities, and that thus results were obtained, not of mere temporary brilliancy, but which bore good fruit in all time.

At the present time the throne is but newly occupied; the governing power has just reverted to the sovereign; old abuses are undergoing reformation, and the people of the empire are beginning to perceive the necessity of being governed properly. The officers of the court are zealously endeavoring to perform the duty of loyal servants, by assisting his Majesty in governing well at home and abroad, in exalting the imperial dignity in the eyes of foreign nations.

Among other pressing duties of the present moment we venture to believe it to be pre-eminently important to set the question of foreign intercourse in a clear light.

His Majesty's object in creating the office of administrator of foreign affairs and selecting persons to fill it, and otherwise exerting himself in that direction, has been to show the people of his empire in what light to look on this matter, and we have felt the greatest pleasure in thinking that the imperial glory would now be made to shine forth before all nations. An ancient proverb says that "Men's minds resemble each other as little as their faces," nor have the upper and lower classes been able, up to the present, to hold with confidence a uniform opinion. It gives us some anxiety to feel that perhaps we may be following the bad example of the Chinese, who, fancying themselves alone to be great and worthy of respect, and despising foreigners as little better than beasts, have come to suffer defeat at their hands, and to have it lorded over themselves by those very foreigners.

It appears to us, therefore, after mature reflection, that the most important duty we have at present is for high and low to unite harmoniously in understanding the condition of the age, in effecting a national reformation and commencing a great work, and that for this reason it is of the highest necessity that we determine upon the attitude to be observed towards this question.

Hitherto the empire has held itself aloof from other countries, and is ignorant of the affairs of the world; the only object sought has been how to give ourselves the least trouble, and by daily retrograding we are in danger of falling under foreign rule.

By traveling to foreign countries and observing what good there is in them, by comparing their daily progress, the universality of enlightened government of a sufficiency of military defenses, and of abundant food for the people among them, with our present condition, the causes of prosperity and degeneracy may be plainly traced.

Of course there must be the great law of punishment and warning, but if we can acquire the art of governing them, men from a distance may be made to behave obediently, and there is no reason to punish or warn the unoffending men from afar.

In the middle ages the imperial court had an office called gemba, and built a korokuan for the entertainment of men from afar.

Subsequently, during the period from 1573 to 1614, the barbarians came frequently to the western provinces and traded there. When they neglected to come, they were summoned to do so by the Taishogun in writing, and threats were held out that if they still delayed they would be attacked by large expeditions from this country. After the Shimabara revolt, in 1637, the Bakufu ordered the country to be closed; but as the privilege of trading was still permitted to China and Holland, it is evident that foreigners were not completely expelled at any time.

Of late years the question of expelling the barbarians has been constantly agitated, and one or two Daimios have tried to expel them, but it is unnecessary to prove that this was more than the strength of a single clan could accomplish.

In the past years the Bakufu declared that it would succeed in ten years; but while making these public protestations it was in private only consulting its own interests by a deceitful stratagem, a course of conduct not fit to be mentioned in the same year with the anxious thought given to the subject by the late Emperor.

However, in order to restore the fallen fortunes of the empire and to make the imperial dignity respected abroad, it is necessary to make a firm resolution, and to get rid of the narrow-minded ideas which have prevailed hitherto. We pray that the important personages of the court will open their eyes and unite with those below them in establishing relations of amity in a single-minded manner, and that our deficiencies being supplied with what foreigners are superior in, an enduring government be established for future ages. Assist the Emperor in forming his decision wisely and in understanding the condition of the empire; let the foolish argument which has hitherto styled foreigners dogs and goats, and barbarians, be abandoned; let the court ceremonies, hitherto imitated from the Chinese, be reformed, and the foreign representatives be bidden to court in the manner prescribed by the rules current amongst all nations; and let this be publicly notified throughout the country, so that the countless people may be taught what is the light in which they are to regard this subject.

This is our most earnest prayer, presented with all reverence and humility.

ECHIZEN SAISHO.
TOSO SAKI NO SHOSHO.
NAGATO SHOSHO.
SATSUMA SHOSHO.
AKI SHIN SHOSHO.
NOSOKAWA UKIO DAIBU.

FEBRUARY 29, 1868.

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## C.

[Translation from the Kioto government Gazette of March, 1868.]

Intercourse with foreign countries, commencing in the reigns of Shinjin and Chuisi, (97 B. C., 30 B. C., and 192 A. D., 200 A. D.,) flourished more and more year after year. Many foreigners of near and distant countries became naturalized, and tribute was paid. Subsequently envoys passed constantly between this country and China, or went to reside there, and our mutual relations became naturally friendly. At that time no great advance in the art of navigation had been made, and our intercourse was restricted to Corea, China, and other adjacent countries. To say nothing of western nations, the position of India, even, was not clearly defined. But of late years, as the Japanese nation is aware, the art of navigation has been brought to perfection, and the most distant countries have been brought into the closest intercourse.

The stipulations of the treaties which the imperial government has become responsible for, by what may be called an error in judgment of the Bakufu, may be reformed if found to be hurtful; but the public laws observed by all nations forbid wanton disturbance of those arrangements as a whole, and it would be a great misfortune for the imperial court to break faith with foreign nations by now altering those engagements.

The imperial government feels itself, therefore, compelled to entertain amicable relations under the treaties concluded by the Bakufu.

This having been already notified to foreign nations, it becomes also necessary to adopt such measures as the ancient constitution of the empire and the public law of the world may conjointly suggest. Consequently it has been decreed that the foreign representatives should enter Kioto and attend at court, the memorial of Echizen Saisho and the others being adopted as a basis, and a mean between the good customs of ancient times and the practice of international intercourse in modern ages being arrived at after open discussion by the officers of the court and the clans.

"Punishment and warning" is a just principle of great antiquity, and it may happen that unavoidable wars may arise among different countries on account of wrongs committed in spite of the bonds of friendship which exist. Such examples are numer-

ous, and we must make up our minds to be ready for defensive and offensive wars; but in spite of this, amicable relations between this empire and foreign countries, commenced under the last reign, by the imperial consent being given to the opening of the ports.

At that time the Bakufu, having been intrusted with the governing power, all matters concerning foreign intercourse were dealt with by it; but a reformation having been effected by which the monarchical form of government is restored and power is vested in the imperial court, it follows as a matter of course that foreign affairs should be managed by the imperial government.

At present, in this new state of things, the Sosai and other officers are responsible for every measure, and it is our desire to fill our high offices as worthily as our limited capacities will enable us.

In a time of great and extraordinary difficulty we have humbly and diligently considered the question, and it has been so decided on our reporting to his Majesty the fair and open opinion of the empire.

In the present and undecided state of our internal affairs we have this important question of foreign relations to deal with. We desire, therefore, that the whole empire, uniting its strength, will serve the sovereign diligently, and argue with us clearly, and advise us stringently and without hesitation, not only upon foreign affairs, but also on all other public business as well. What is of most importance is, that people will open their eyes to the present state of affairs and rid themselves of degenerate old habits; will cause the imperial virtues to shine forth to all nations, and render the empire as firm as a rock, and thus please the spirits of departed sages now in heaven.

Let high and low respectfully observe these words.

The three officers of the Daijokan (government.)

MARCH 10, 1868.

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## D.

[Translation from the Kioto Gazette of March, 1868.]

On the 21st of March his Majesty summoned the Daimios before his throne and pronounced the following speech to them:

We have just succeeded to the imperial throne, and the empire is now undergoing a thorough reformation. We ourselves exercise supreme and sole decision in both civil and military matters. The national dignity and the happiness of the people depend upon our fulfilling the duties of our high office, and we are constantly and unrestingly applying our thoughts to this subject. Unworthy as we are for the task, we desire to continue the work begun by our wise ancestors, and to carry out the policy bequeathed to us by the late Emperor, by giving peace to the clans and the people at home, and abroad by making the national glory to shine beyond the seas. Because Tokugawa Keiki harbored lawless schemes, the empire has fallen to pieces, and the result has been civil war, inflicting the greatest miseries on the people. We have therefore been compelled to resolve on taking the field in person against him.

As has already been notified, the existence of relations with foreign countries involves very important questions. We are willing, therefore, for the sake of the people of this empire, to brave the perils of the deep, and to undergo the greatest hardships; to swear to spread the national glory abroad, and to satisfy the departed spirits of our ancestors and of the late Emperor.

Do you, assembled clans, therefore assist our imperfections, and, uniting with all your heart and all your strength, perform the parts which have fallen to you, and zealously exert yourselves in behalf of the state.

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## E.

[Translation from a newspaper published in Yedo, entitled "Home and Foreign News," April 10, 1868.]

*Memorial of Okubo Ichizo, of the Satsuma clan.*

Such a great revolution as the present has never taken place since the creation of Japan. How can it be judged of by ordinary rules? In a single battle the government forces have gained a victory, and the chief rebel has fled eastward, but his lurking place is not yet conquered.

Laws which shall insure amicable relations with foreign countries have still to be framed. The clans are in a state of alienation and insubordination, and the attitude they shall assume is yet a matter of uncertainty. Men's minds are unsettled, and the

public business is in a state of confusion. The great work of restoring the ancient constitution is only half accomplished; it may be said that it has only just commenced. If the imperial court seek only a temporary advantage instead of insuring permanent tranquillity, we shall have a repetition of the old thing, like the rise of the Ashikaga after the destruction of the Hojo—a getting rid of one traitor only to have another spring up.

The most pressing of your Majesty's pressing duties at the present moment is not to look at the empire alone and judge carelessly by appearances, but to consider carefully the actual state of the whole world; to reform the inveterate and slothful habits induced during several hundred years, and to give union to the nation, so that the whole empire shall be moved to tears of gratitude, and both high and low appreciate the blessings of having a sovereign in whom they can place their trust.

Hitherto the person whom we designate the sovereign has lived behind a screen, and, as if he were different from other human beings, has not been seen by more than a very limited number of kuge; and, as his Heaven-conferred office of father to his people has been thereby unfulfilled, it is necessary that his office should be ascertained in accordance with this fundamental principle, and then the laws governing internal affairs may be established.

In order to accomplish a great reformation by the lights of this principle, it is necessary that the capital be moved. To proceed to prove this: degenerate customs are not matters of reason but of feeling, and feeling depends upon conventional phrases.

To instance one or two of these constitutional phrases, the residence of the sovereign is called "above the clouds;" his nobles are styled "men of the region above the clouds;" his face is compared to a "dragon's countenance," as something not easily to be seen; and his "gem-like person" is spoken of, by excess of respect, as something which must not touch the earth; so that he begins to think himself a more honorable and illustrious being than he is, until, high and low being alienated from him, his condition comes to be as miserable as it now is. No argument is required to prove that respect for superiors and kindness to inferiors is the great bond of human society; but if the former be carried to an excess, the end is that both prince and subject forget their duties to each other. The praise accorded to the Emperor Nintoku arises from this; and the sovereigns of other countries, who walk about with only one or two attendants to look after the interests of their subjects, may truly be said to discharge the duties of princes.

In the present period of reformation and restoration of the government to its ancient monarchical form, the way to carry out the resolution of imitating the example of Japanese sages, and of surpassing the excellent governments of foreign nations, is to change the site of the capital.

Unless your Majesty takes advantage of the present opportunity, and adopts an easy and convenient means of clearing away old abuses; unless you discharge the princely duty conferred on you by Heaven of being the father of your people, and establish universally such a system that the whole empire shall tremble and obey your commands, it will be impossible to make the imperial glory shine beyond the seas, or to take rank amongst the nations of the earth.

Osaka is the fittest place for the capital to be removed to. A temporary palace can be fixed upon, the form of government take a distinct shape, and great things will be accomplished. For the conduct of foreign relations, for enriching the country and strengthening its military power, for adopting successful means of offense and defense, for establishing an army and navy, the place is peculiarly fitted by its position. But I will not urge more here, for the different departments will have their arguments to advance also.

This question seems to be the pivot on which our domestic affairs turn, and I think it is one which calls for instant decision. Should this plan be carried out, the basis of our internal government will have been established. Should the capital be removed to some other place than Osaka, through anxiety lest some little difficulties should arise, a great opportunity will have been lost and the empire be deprived of a valuable advantage.

I most humbly pray your Majesty to open your eyes and make this reform, and to set forth upon the journey without loss of time. Capital punishment should not deter me from making this petition.

OKUBO ICHIZO.

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### *Mr. Van Valkenburgh to Mr. Seward.*

No. 43.] LEGATION OF THE UNITED STATES,
*Yokohama, April 27, 1868.*

SIR: In his dispatch No. 5, of the 22d January, 1866, Mr. Portman

informed you of the selection made by him of a site on which to build a legation residence at this port, in exchange of one originally granted by the Japanese government to Mr. Pruyn, according to an agreement to that effect.

The other legations also procured sites for a similar purpose and entered into further agreements with the Japanese government, which constructed any buildings that were required at an annual rental of ten per cent. of the total amounts expended, and in addition to a ground rent equal to that paid by the other residents at this port.

Such house and ground rents being provided for these legations by their respective governments, I have learned that permanent arrangements binding those governments for the payment as above mentioned have been effected.

Yokohama, however, will never be the capital of Japan; and even if it were to become permanently the headquarters of our diplomatic and consular service in this country, I could not apply for an appropriation either to construct such official buildings, or recommend that provision be made for annual house and ground rent for myself and successors in office. Three lots have been reserved for the United States—one legation, one extra consular lot, and one hospital lot.

They are well situated on the bluffs, at a short distance from this settlement, and the annual ground rent for these three lots is $132, $220 20 and $155 40 Mexican currency, respectively.

People may probably be found willing to build on these lots and to pay the annual ground rent, and the Japanese, who are entitled to this money, now claim the ground rent in the same manner as from the other legations for ground granted for public purposes.

The lots cannot in justice be much longer reserved by the United States, unless on payment of the rent agreed upon; and as I cannot recommend this course, I have to request, as they possess no marketable value equal to the rent due, that you will be pleased to authorize me to waive any right and title hitherto possessed on the part of the United States, and to return those lots to the Japanese authorities in such manner as will involve no expenditure of public money, and thus finally dispose of all claims for rent, and back rent alleged to be due under the agreement made with Mr. Pruyn above referred to.

I do not hesitate, however, again to recommend, as I have done on former occasions, that exception may be made for sufficient ground for hospital purposes. From the commercial returns you will have perceived that this port is of daily increasing importance to American trade, and it is extremely mortifying to be constantly beholden to the English, French, or Dutch authorities for hospital accommodation for our sailors, who arrive here in great numbers.

I have, therefore, further to request that you will be pleased to take this matter into consideration, and urge upon Congress the passage of a suitable appropriation for an American marine hospital, so urgently needed at this port.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 44.] LEGATION OF THE UNITED STATES,
*Yokohama, April* 27, 1868.

SIR: The Stonewall arrived here on the 24th instant, in excellent condition. Her arrival at this juncture created great commotion among the Japanese. A few days previous it had been made known that she would for the present remain under our flag, but as she came in under Japanese colors, officers of the Mikado's forces, in ignorance of the fact, at once came on board protesting against her proceeding to Yedo. Officers of the Tycoon also promptly came down, but immediately returned on receiving the renewed assurance that, in view of the strict neutrality to be observed, the Stonewall would remain under the American flag until pending questions, should have been settled, and peace re-established, or until further instructions in regard to her delivery should have been received from you.

If she could have been delivered, all the money due on her would have been promptly paid by the Tycoon's government; but as this government has to all appearances entirely ceased to exist, and the new or Mikado's government has not yet taken possession of Yedo, where at present negotiations are being carried on, which may probably, as I have been informed, lead to an amicable settlement of existing complications, I find myself compelled, as no other alternative is presented, of keeping the Stonewall in this port, and provide for her expenditure while here.

Commander Brown's letter of credit, I have been informed by him, having been exhausted, and being obliged to purchase coal at Honolulu, he drew on me for $6,752 58 Mexican currency, at ten days' sight.

I have not yet been able to examine her accounts, but will do so as soon as this mail shall have left to-morrow morning.

According to Commander Brown's estimate, between $12,000 and $13,000 (Mexican) will be required to provide for the ship, her officers and crew, until the 1st of July next; and I have now the honor to inform you, as bills on Washington are at present not negotiable at this port, that I have drawn this day on Messrs. Baring Brothers & Co., London, at four months' sight, for £4,416 13*s.* 4*d.* sterling, making, at the rate of 4*s.* 5*d.* sterling, as per voucher herewith, marked inclosure No. 1, a sum of $20,000 Mexican currency, which amount has been placed with the Hong Kong and Shanghai Banking Corporation at this place, to the credit of this legation for Stonewall account.

I shall advise Messrs. Baring Brothers & Co. accordingly, by the English mail, to leave here within a week, and I have now to request that you will be pleased to order those gentlemen by telegraph to honor this draft.

All bills of the ship shall be carefully examined, and no money be paid on her account except on duly authenticated vouchers.

I have further to request that you will cause all the accounts of the Japanese to be made out in the usual form, and to be sent to me.

The former commissioners, Ono Tomogoro and Matsmoto Jüdayü, are no longer in office, and their papers are not sufficiently clear to enable me to effect a settlement and collect all the money due to the United States from the Japanese government.

I trust you will be pleased to approve of my action, and to consider that I had absolutely no choice in the course to be pursued.

No money can be collected from the Japanese at this moment; the

ship can only be delivered to the Japanese government under such instruction as I may receive from you; and until there shall be such a government, this ship will have to remain here unless otherwise directed; and such further instructions I hope will have reached me before I can hear from you in reply to this, and by the steamer which is due here in the latter part of June next.

I transmit herewith inclosure No. 2, copy of letter of Commander Brown, announcing the arrival of the Stonewall under his command, and inclosure Nos. 3 and 4, copies of two letters by me to Commander Brown.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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JAPANESE IRON-CLAD STEAMER STONEWALL,
*Off Yokohama, April 23, 1868.*

SIR: In compliance with instructions from the honorable the Secretary of State, I have the honor to report the arrival of this vessel at this port.

I am the bearer of two packages from the State Department, which I am directed to deliver to you, and will take pleasure in so doing at the earliest possible moment.

I am, sir, very respectfully, your obedient servant,

GEORGE BROWN,
*Commander, United States Navy.*

Gen. R. B. VAN VALKENBURGH,
*United States Minister Resident, Yedo.*

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*Mr. Van Valkenburgh to Commander G. Brown.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, April 24, 1868.*

SIR: I have the honor to acknowledge the receipt of your letter of this day, reporting the arrival of the Stonewall under your command.

The character of the government of Japan is very much changed since the time of her purchase in the United States; a revolution is now in progress which may at any moment again manifest itself by armed conflicts.

Under these circumstances I have to direct that the Stonewall be kept under the American flag, and not delivered into the hands or control of any Japanese until such time as the instructions applied for shall have been received by me from the Department of State, and of which you will be duly informed.

I have to request you to communicate to me such instructions as you may have received; to furnish me with your accounts; and to deposit at this legation all papers and documents addressed to Japanese authorities and others which may have been intrusted to your care.

I have the honor to be, sir, yours, very respectfully,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander G. BROWN,
*Commanding Stonewall.*

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*Mr. Van Valkenburgh to Commander G. Brown.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, April 24, 1868.*

SIR: Until instructions are received from the State Department, or other arrangements are made, with reference to the delivery of the Stonewall, and the payment of the remainder due to the United States government on her sale, I respectfully suggest,

under the circumstances, that it would be well for you to keep her under the American flag, and not hoist the Japanese colors; and further, that steps should be taken to prevent any number of Japanese armed men from coming aboard at one time.

I have the honor to be, sir, yours, very respectfully,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander G. BROWN, U. S. N.,
*Commanding Stonewall.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 46.] LEGATION OF THE UNITED STATES,
*Yokohama, April 27, 1868.*

SIR: On the 25th instant I received from our consul at Kanagawa a communication covering one from Paul Frank, esq., consular agent at Hiogo, complaining that on the 14th instant some Japanese armed officials went on board the American bark Dispatch, then in that port, and loading for this place, and undertook to overhaul the cargo, upon the plea that smuggling of tea was being attempted.

This act was done without holding any conference either with the consular agent or the captain of the ship upon the subject. Immediately on being informed of this armed interference, Commodore Creighton, of the Oneida, sent a boat to the Dispatch, and the Japanese at once left her. I am not yet sufficiently informed of the facts to present them by this mail, but have directed that the affidavit of the captain be at once procured, and a full statement of the case be made, for my consideration, which I hope to forward by the next English mail.

The officers in power at Hiogo and Osaka are new to their business, and have very little intercourse with foreigners; therefore it would not be at all strange if, flushed with their recent successes, they should at times commit some outrages of this kind.

We have now no high officials of the Mikado's government here with whom we can confer, but are expecting daily the arrival of two commissioners for foreign affairs.

The Mikado, it is said, has gone to Osaka, intending soon again to return to Kioto.

The late Tycoon is in retirement at a temple in Yedo. The Mikado's envoy has reached that city, and we trust to hear before long of the amicable settlement of all difficulties. Yet there are armed bodies of *ronins* about the country, who are responsible to no head, and a state of guerilla warfare may exist for a long time to come. It is not considered safe to venture beyond the limits of this settlement, and no foreigners are now in Yedo. All the legations are at this place. The old governors still remain here and transact the business, the officers appointed by the Mikado to supply their places not having arrived.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Van Valkenburgh to Mr. Seward.*

[Telegram.]

No. 47.] LEGATION OF THE UNITED STATES,
*April* 28, 1868.

SIR: Affairs looking better. Hope for an amicable adjustment, and that further hostilities will be avoided. Stonewall arrived on the 24th instant; all well.

I keep her under American flag. Have drawn on Baring Brothers & Co. for £4,416 13*s.* 4*d.* sterling, to pay her expenses to 1st of July.

Full particulars by mail; please telegraph to London to honor this draft, and send me instructions by steamer leaving San Francisco about 1st of June.

Respectfully,

R. B. VAN VALKENBURGH.

HON. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 51.] DEPARTMENT OF STATE,
*Washington, April* 30, 1868.

SIR: I have received at the same time your several dispatches, namely, of the 3d of February, No. 7; 5th of February, No. 8; 17th of February, No. 10; 18th of February, No. 11; 24th of February, No. 12; 28th of February, No. 13; and 1st of March, No. 14.

These dispatches inform me of a very rapid movement of political and military events in Japan; of battles between the Tycoon's forces and those of the Mikado, near Osaka; of the retreat of the Tycoon; of your own removal, and the removal of the European legations in imminent peril from Osaka to Hiogo; of the Tycoon's flight and return to Yedo; of the outrage committed upon European and United States citizens by the troops of the Prince Bezen, at Hiogo; of the joint defense of the place by the naval forces of the treaty powers; of daily consultations among the legations, and of several conferences held by them with Higashi Kuze Saki No Sho Sho, the agent of the Mikado for the establishment of the Mikado's authority at Hiogo and in the adjacent country; of the interview between the French minister and the Tycoon, and the report upon it to the legations; of the terms agreed upon between the legations and the Mikado for the vindication of the rights and honor of the treaty powers; of the incongruous and uncertain reports of the Tycoon's resignation; and generally of the division of the empire into two military camps.

I especially take notice of a conference between yourself and the other legations, in which a resolution was adopted that on the one hand the Stonewall, then expected at Yokohama, should not be delivered up to the Tycoon or his agents, but detained under the United States flag there or at Shanghai; and that certain war vessels expected from Great Britain on the account of the Mikado or his adhering Daimios should not be delivered to them, but retained under the British flag. You request an approval of your proceedings as reported in these several dispatches.

Cable advices from Europe represent that, at periods later than the dates of your dispatches, the Tycoon had given over the contest and had submitted to the Mikado, and that there was a good prospect of the restoration of peace and the re-establishment of order under the undivided sway of the Mikado. These dispatches, however, bear no marks of authority or authenticity. The narrative contained in your dispatches is clear, distinct, and full. It leaves no doubt on the mind of the President that in all your proceedings you have practiced consummate prudence and discretion, and your proceedings are therefore unhesitatingly approved. On the other hand, for aught that is known here, the political and military situation may have already changed more than once, and may change more than once hereafter. The approval, therefore, which is now given to your past proceedings must not be understood as interfering with the exercise of your discretion in future, as events may from time to time require.

The course you have marked out in regard to the Stonewall at present seems to me impracticable. The Stonewall was delivered to the Japanese government in American waters. Since that delivery she has been a Japanese vessel under the Japanese flag, and in no way subject to the laws or authority of the United States. Her officers and crew are employés of the Japanese government, and are not in the service of the United States. No diplomatic, consular, naval, or military agent of this government has a lawful right to reduce her into possession or to interfere with her movements. I forbear, however, to dwell upon this point at present, for the reason that it is supposed that long before this paper can have reached its destination the Stonewall will have arrived in Japan and encountered whatever obstruction or reception was prepared for her, whether that preparation was made by one or the other of the Japanese national parties, and whether with or without your concurrence. Your course in regard to the same must be determined by events. So long, however, as you shall continue to exercise a sound discretion, and at the same time co-operate in prudent measures with the representatives of the treaty powers in Japan, you may expect that you will have the approval of this government, which of course will adopt its own proceedings according to the exigencies of so anomalous a case.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 52.] DEPARTMENT OF STATE,
*Washington, May* 20, 1868.

SIR: Your dispatch of the 28th of April, which came by telegraph from San Francisco, has been received. You report that affairs are looking better in Japan, and that you are hoping an amicable adjustment, by which means further hostilities will be avoided. You inform me that the Stonewall arrived on the 24th of April, that you keep her under the United States flag, and that you have drawn on Baring Brothers & Co. for £4,416 13¼*s.* sterling to pay her expenses until the 1st of July. You ask me to instruct Baring Brothers & Co. to honor your draft, and to send you instructions upon the whole case by the steamer which will

leave San Francisco about the 1st of July. We are thus apprised that you have adopted, in regard to the Stonewall, the measure which was indicated in your dispatch No. 12, of the 24th of February last. For the reasons stated in my No. 51, that proceeding is necessarily regarded as entirely irregular. The Stonewall having been sold and delivered to the Japanese government and put under its flag, there is no law of the United States which authorizes the exercise of power or authority on her deck by the executive department of this government. The Stonewall could be brought under our jurisdiction again only by a special treaty for that purpose, to be concluded between the United States and Japan. No appropriation law authorizes the payment of the expenses you have thus assumed to pay. Independently of these circumstances, the instruction which you ask is written under very perplexing uncertainty in regard to the present stage and future course of the civil war in Japan. It is unhesitatingly assumed that in proceeding without lawful authority to take possession of the Stonewall and put her temporarily under the American flag you have obeyed a manifest necessity, insomuch as, if delivered at once to either of the belligerents, she might have been employed for the destruction of the lives and property of the citizens of the United States in the ports and waters of Japan. It is assumed, also, that you have consulted the interest not only of the United States, but also of the other treaty powers, by preventing that powerful engine from becoming a scourge of commerce and a weapon of retaliation against the new policy of civilization opened in Japan through the exertions of the western powers.

It is further assumed that the proceeding has been taken upon consultation with the representatives of the other treaty powers in Japan, and upon their loyal and disinterested advice.

Under these special circumstances, the President has authorized me to approve of the proceeding, and to provide for the acceptance of your draft upon Baring Brothers & Co. It will be necessary, however, to terminate this new and anomalous situation of the Stonewall as soon as it can be done without exposing life and property of citizens of the United States and of the other treaty powers in Japan to imminent danger. Further, in taking possession of the Stonewall you are understood to have done so with the informal consent and approval of both of the belligerents in Japan, and with the view of facilitating the restoration of peace, law, and order throughout the empire. The United States will, therefore, expect a full reimbursement of those expenses by Japan, to be made on the restoration of the Stonewall to the Japanese government. You will make this expectation known to the proper political authorities of the empire so soon as diplomatic intercourse shall be formally re-established.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 50.] LEGATION OF THE UNITED STATES,
*Yokohama, May* 25, 1868.

SIR: In my dispatch No. 38, of the 14th ultimo, I had the honor to inform you of the demands made on the late Tycoon on behalf of the

Mikado, and in my No. 41 I reported the arrival at Kanagawa of Hashimoto No Shosho, then on his way to Yedo.

This dignitary, on the 24th ultimo, reached the quarters prepared for him at the temple of Ikigami, at about three miles on this side of that capital; some two days later, Yanagiwara, another dignitary of the same rank, also arrived there.

The Mikado's troops already in Yedo, with the exception of a few men who were murdered in broad daylight, remained unmolested. The feeling against them was represented as intense; yet there appeared to be a power somewhere to control it, as there was no outbreak of any kind.

On the 15th ultimo the Mikado arrived from Kioto at Osaka, where he still remains. The British minister sailed for that city, to present to the Mikado a letter of credence received from his government, and he is daily expected to return to this port.

In concert with all my colleagues it was unanimously determined to remain here for the present, as our interests are in this part of Japan, and the question that agitates this country will have to be solved in Yedo.

The two dignitaries named entered the castle in that capital in state on the 26th ultimo, for the purpose of presenting the Mikado's demands in a formal manner, and it appears they returned to their temple at Ikigami with the renewed assurance that those demands would be complied with.

The late Tycoon stipulated, however, for his withdrawal to the castle of Mito, near the east coast, whither he accordingly proceeded on the 2d instant, accompanied by a body guard of only sixteen hundred men. At a short distance from Yedo this escort appears to have been increased, and he is now reported to remain in that castle with a force of between five and six thousand well-armed men.

When it became evident, to the great surprise of many, even among the best informed natives, that no resistance would be offered by the late Tycoon, Arisugawa No Miya, the Sosai, a sort of grand vizier of the Mikado, who had remained in a castle to the westward of the Hacone Pass, began moving in the direction of Yedo, where he arrived two weeks ago.

The ladies of the court, in the mean time, vacated the castle; the consort of the late Tycoon, Tokugawa Yoshinobu, with her suite, moved to the palace of Mito, at Yedo, and the dowager of his predecessor, the sister of the present Mikado, with her suite, established herself in the palace of the Prince Tayasu of the Tokugawa clan, also in that capital.

In compliance with the demands, it appears the late Tycoon issued orders on the 6th instant to his army, navy, and treasury to surrender, and on the 11th instant the necessary documents to that effect were said to have been exchanged. The orders, however, were all disobeyed; the army scattered, taking their arms with them; the ships of war got up steam and left the Yedo anchorage, and the treasury is reported to have been found quite empty.

The army, being disbanded, at once proceeded, in accordance with established custom, to set up for themselves, and on the 12th instant intelligence was already received at Yedo of a rising of Ronins some eighty miles to the north of that capital, and of a battle having been fought which lasted two days, and in which the Mikado's troops were reported to have been defeated. A large portion of the Mikado's forces, the whole of which is variously estimated at between twenty and thirty thousand men, had been sent north in squads in every direction to claim submission to his flag. During the afternoon of that day reinforce-

ments began to be dispatched to the scene of conflict, and almost daily since then rumors of fights and skirmishes have been received here, nearly all of which are reported to have been adverse to the troops of the new government.

I transmit herewith inclosure No. 1, translation of the Mikado's ultimatum, attached to which is translation of a petition in reply by the principal retainers of the late Tycoon, also named Keiki. This name is simply a different pronunciation of the same character, signifying Yohinobu.

In this document you will perceive those retainers, acting in behalf and as the representatives of the Tokugawa interest, claim that the possession of the eight provinces of the Quanto, (eastern Japan,) and the provinces of Sumga, Totomi, and Mikawa shall be confirmed.

These eight provinces are Musashi, Sagami, Awa, Kadzusa, Simosa, Hitatsi, Kodzké, and Simodzké, in all, with the three before named, eleven provinces, the property of the Tokugawa clan, of which the late Tycoon virtually remains the chief. The revenue of this property is officially given in the peerage of Japan at eight millions of koku, a measure of rice of about two hundred and sixty-six English pounds, and also used generally in accounts.

Next to Tokugawa the Kaga clan ranks in wealth, and the income of the Prince of Kaga is a fraction over one million of koku, or about *one-eighth* of that of Tokugawa.

The three great Daimios who act in behalf of the Mikado are Satsuma, Choshin, and Tosa, whose revenues are only 770,800, 369,000, and 242,000 koku, respectively.

It is quite evident, therefore, whatever power the Mikado may assume and succeed in retaining, that unless the Tokugawa clan be shorn of most of its property, the chief of this clan will remain by far the most powerful personage in this empire. It was always the Tycoon who supplied the revenue of the Mikado and his court, and the high office of Tycoon or Shongung now having been abolished, the Mikado's revenue is no longer furnished by Tokugawa, but by the three Daimios above named, to whom other nobles of more or less power have allied themselves. Among those a few owed fealty to the Tycoon and betrayed him.

The present crisis or revolution has clearly revealed the utter rottenness of the Japanese system of government. Treachery cropped up everywhere, and unless the Daimios who are with the Mikado are better than those who were formerly with the Tycoon, which is very doubtful, the Mikado, should the tide turn against his flag, may be betrayed in his turn.

The Tycoon, by complying with Mikado's demands, may have shown a great deal of foresight. He is reputed extremely intelligent, in advance of his countrymen, and the best-informed person on the affairs of this country. He has no debt, and his treasury was sound. The last years' taxes had been collected by his officers, and as no taxes are due before the rice crop will be gathered, viz, in November next, the occupation in the interim of one or more provinces by Daimios' men does not yet involve any loss of revenue.

On the other hand, the southern Daimios who have the control of the Mikado are not apparently in so favorable a situation. Choshin and Tosa have only slightly exceeded their revenue. The case of the Prince of Satsuma, however, appears to be much more serious. This prince is known to be heavily in debt, principally to English merchants, for supplies of ships, arms, and munitions of war, &c. The island Sakwea,

belonging to him, is said to have been mortgaged to those merchants, and if the Mikado's government, as now constituted, should not remain a de facto government, or Satsuma become unable to maintain the controlling influence he succeeded in assuming, this Daimio may become insolvent. Every day's delay, therefore, while it does not much affect the Tokugawa clan, adds to the embarrassments of the southern coalition, of which Satsuma still holds the lead.

Among the northern Daimios the Princes of Sendai, Sakai, and Aidzu are the most powerful; and the latter is particularly prominent for his reputed unswerving fidelity to the Tycoon's or Tokugawa cause. This Daimio has been restrained thus far from actively participating in the strife. The Prince of Sendai was ordered by the Mikado to attack and subdue him, but this Prince, instead of complying with the order, replied in a memorial, a translation of which I herewith transmit, (inclosure No. 2.)

In this temperate and respectful memorial Sendai remonstrates with the Mikado against a sentence being passed on one who never had a trial, and in the absence even of specific charges; and he further advises the adoption of a policy of moderation.

It is my impression that even if the southern coalition should succeed in subduing the eleven provinces of Tokugawa, they will never be able to hold and rule so large a territory for any length of time. There may be much more treachery, and considerable accession to their forces from some of the Tokugawa chiefs, but many men of influence have already committed themselves to a course of resistance from which there is no retreat. Many others have everything to lose and nothing to gain from a change of government of their clan, and the members of all these are likely to prove sufficient to prevent a peaceable transfer of the most productive portion of Japan from being consummated.

Enough has been witnessed to prove that a government in Japan under any other than the Mikado as chief is now an impossibility; and it is almost equally certain that the chief of the Tokugawa clan will remain the most powerful personage in this empire. As long as these two powers remain antagonistic, I beg to submit that our true policy is to be most careful, in view of maintaining a strict neutrality, to take no unnecessary action calculated to give umbrage to either party, to maintain our treaty rights with the local authorities at the open ports for the present, and to guard against suspicion of partiality in favor of any one connected with this civil strife.

While this course limits the foreign representatives, to some extent, to a policy of observation only, I feel sure that at an early day its soundness will be fully vindicated. The British minister saw fit at once to deliver a renewed letter of credence to the Mikado at Osaka; the other representatives, like myself, last year delivered our letters of credence to the Tycoon, at that time the *de facto* chief of the government of Japan. To deliver a new letter of credence to the Mikado appears a useless ceremony, not likely to afford much satisfaction to this sovereign, while it may unnecessarily excite the antipathy of the late Tycoon or Tokugawa, and his adherents, who, if they should determine to use the power still possessed, may soon be in a position greatly to influence, for good or for evil, the intercourse of the treaty powers with this country.

On the 18th instant I visited Yedo in the Monocacy, and remained there until the 22d. Edzure Kanga No Kami, a governor for foreign affairs, called on me at the legation, and from him I learned, in confirmation of what had reached me previously, that the Tycoon or Tokugawa civil officers transacted their business in Yedo as usual, and without the slightest interference on the part of the Mikado's officers. With the excep-

tion of but little, that had been stolen, the Tycoon's property had remained intact. Reports of fights at the north reached Yedo daily. Arisugawa No Miya was in the castle with a guard of only twenty men. Prince Tayasu, one of the Gosaukes, or families eligible for the Tycoonate, was now the chief of the Tokugawa clan, and rice from the Tycoon's stores was being distributed among the poor by his own officers. If only the Prince of Aidzu, the governor said, would remain quiet and abstain from fighting, there was a prospect of an early settlement of all existing difficulties without further bloodshed.

There were only about one thousand men of the Mikado's army left in Yedo; and the governor further informed me that four—that is, one-half—of the least serviceable steamers of the late Tycoon had been transferred to the Mikado. On my return from Yedo I noticed that four steamers were flying the Mikado's flag; the officers and men, however, had not been changed, and all were still in the Tokugawa pay.

At first the Ronins had no organization. They now fight under the flag of Gongen Sama, the founder of the Tokugawa dynasty, the great lawgiver of Japan and lineal descendant of one of the great Mikados, and whose memory has always been held, even by the Mikados, in profound veneration. With the immense prestige thus acquired by the Tokugawa men, a settlement on a basis honorable to both contending factions may now reasonably be hoped for at an early day.

On the 9th instant two Mikado's commissioners for foreign affairs, Higashi Kuze Jijio and Hijen Jijiu, arrived at Yokohama; and on the 11th, the governor of Kanagawa having peaceably transferred all public property to them, those officers, together with two others who are acting as governors of this port, entered upon their duties, and the foreign marines and soldiers were all withdrawn.

I transmit inclosures No. 3 and 4, copies of letters addressed to Commander Carter, the senior naval officer, and the consul at this port.

The legations are all temporarily established here, and the most perfect unanimity prevails among them.

I have the honor to be, sir, very respectfully,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*The Mikado's ultimatum.*

The deceitful conduct of Keiki towards the imperial court, ending at last in the most infamous actions, has deeply grieved the imperial bosom. In consequence, his Majesty has made war upon him in person, and forces have been sent against him by sea and land from all sides. Upon this, Keiki becoming repentant and submissive, his protestations of sincerity were admitted. His Majesty, with superabundant clemency, has therefore decreed the accompanying terms, which must be respectfully accepted. By the 3d of May these conditions must be fully carried out. The time allowed being perfectly ample, no petition or prayers will be listened to. His Majesty is fully determined to maintain his authority as well as his clemency. Let there be instant acceptance, and no disputing.

ARTICLE I. Since the twelfth month of last year (January, 1868) Keiki has practiced deceit upon the imperial court. In aggravation of this he has used arms against the imperial capital, and for several days continued to fire against the imperial standard. The government forces were dispatched to punish him for these flagrant offenses. Upon this he displayed a sincerely obedient and submissive temper, and acknowledged his fault. His ancestors, in governing the country for more than two hundred years, have performed much good service, and the late Dainagon of Mito* also for many years

* The ex-Tycoon's father.

diligently served the imperial cause. His Majesty is therefore graciously pleased to take these things into account, and the following conditions being faithfully performed, he will extend his clemency, so that the name and family of Tokugawa shall continue, and Keiki's sentence of death being commuted, he shall retire to Mito and live there in seclusion:

ART. II. The castle to be evacuated and handed over to the Owari clan.

ART. III. Vessels of war and fire-arms to be surrendered; a suitable proportion of these shall afterwards be returned.

ART. IV. Retainers resident in the castle to retire outside and remain in seclusion.

ART. V. The persons who assisted Keiki in his rebellion are guilty of a flagrant offense. They deserve the severest punishment, but by his Majesty's special clemency their lives are spared. A report must be made showing that they have been appropriately punished. The imperial court will deal with those who possess revenues above ten thousand koku, (*i. e.* Daimios.)

We believe that these terms will be accepted by the Tycoon, who performs the part more specially by his leaving Yedo to-day. He will be accompanied by his body-guard, composed of the two bodies called Yû-geki-toi and Sei-yei-tai.

It is worthy of notice that no mention is made in the above ultimatum of the amount of revenue to be allotted to the Tokugawa family. We have good reason to believe that this omission has excited a good deal of suspicion among the retainers of the ex-Tycoon as to the genuineness of the Mikado's declaration that the clan shall be allowed to exist in the future, especially as the third article calls for the surrender of those weapons on which they rely as a means of making their rights understood. Accordingly we expect to hear that Article III is evaded to a great extent.

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[Translation.]

*Reply of the retainers of the Tokugawa clan to the Mikado's ultimatum.*

Military weapons are instruments of the greatest importance, not only for holding the castle and territories, but also as being the basis of the protection of the empire. We have the honor to request that this article may be left in abeyance for a short time.

The castle of Yedo is the center from which the divine ancestor put an end to war and directed the government. If possession of this be lost to [our chief] he is cut off from what is of vital importance to him. We have the honor to beg that possession of this may, by a most liberal exercise, be left to him.

The eight provinces of Kuanto, Sumga, Totomi, and Mikawa were bestowed by Heaven and man upon the divine ancestor, as the rewards of his exploits and labors, and are held under that title We have the honor to beg that by a liberal exercise of grace the possession of them may be bestowed forever upon the person who is to perpetuate the name of the family.

The body of retainers venture boldly to express their inmost thoughts, and to present a humble petition on two important points. With respect to one of these, they are unwilling to express themselves verbally or in writing; the other is, that they know not where they shall die. The gist of it is this: By the occurrences of the first month our Naifu (the ex-Taikun's title) lost the multiplied favors [of the Mikado.] The devotion which consumed his entrails became of no avail; censures were passed upon him by everybody; and the mutual relation of benefits and duties which had existed between the civil and military classes for three hundred years were violently interrupted. In what words will Heaven and man describe this? His memorial resigning his office, and that which sought to purify [the Mikado's] surroundings, were but acts of unselfishness and patriotism, of disesteem of self and respect for the Emperor. How could Keiki forget the claims of his country? How could he forget his prince? Though men should call this rebellion, the gods of heaven and earth still gloriously exist; the sun and moon have not yet fallen to the ground; a man may be slandered by a hundred tongues, but how can the gods be deceived? How can Heaven be deceived?

The order to punish proceeds from the Emperor, but the person to be punished is our prince. Shall we obey the imperial will, or shall we protect our prince?

This is why we know not where we shall die. Though the imperial decision now pronounced is called a liberal sentence, in fact it is next door to destruction, since we know not where to place the person of our prince, and his retainers may not hold possession of his castle and territories. How can we retainers keep silent and quietly look on at this juncture? Though we may be overcome by superior force, and oppressed without good reason, a thousand years hence, when men have fixed their opinion and the rights of the case are plainly understood, what will virtuous men say of us? Will they call us human beings or brute beasts?

Our great Japan is the divine country, founded by the sun goddess. This title is given to it because the Emperor in ruling the people makes tenderness for their welfare

his guiding principle, because subjects in respecting their superiors regard fidelity as of great importance. Now that the imperial forces have come eastward, and the enormous merits of our divine ancestor have disappeared like bubbles on the surface of water, when the Taijin (Shôgunate) is in danger of destruction, were there none found to share the misfortune of the country (*i. e.* the Tokugawa clan) it would prove that not a single dutiful child, not one faithful servant, existed. Could it be said that the disgrace attached to the retainers of Musashi alone? It could not be called erroneous to say that such an approach to entire disappearance of tender care and fidelity showed that the country no longer existed. This is that unspeakable thing which the retainers have dared to say, and their ignorance of the place where they shall die arises from this also.

Who does not reverence the Emperor? Who does not fear death? Who does not love life? Then what is the reason that, casting aside fear of death and love of life, we have dared to say what we would have left unsaid? It is that for own nationality we cannot bear to rebel against the spirit of the sun goddess, and for our office we cannot abandon our fidelity.

Right principles are most important for a country, and fidelity is its most precious possession. How can we act like brute beasts with the azure heaven and bright sun over our heads?

The Emperor is a god he is our father and our mother. Would that, exercising his bright and all-pervading tenderness and love, he would deign to look upon this lament, which we can present to no one else, and think of the meritorious deeds of our ancestor and founder, Iyeyasio; would that by a special and extraordinary act of grace he would grant our petition, so that the family name being perpetuated, faithful service might be eternally rendered and the mutual relations of favor and fidelity between prince and servant be continually carried out.

The retainers in writing this have mingled many tears with the ink, without fear of death, but with profound respect. Memorialized by the body of servants and retainers of Musashi.

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[Translation.]

[From the Yedo Home and Foreign News of May 5, 1868.]

*Memorial of the Prince of Sendai.*

Orders have been received in writing to the effect that, as a decree has been issued commanding the imperial forces to proceed by the Tokaido, Toryando, and Hokurikudo, to punish the treason of Tokugawa, the clans of Mutsu and Dewa, bearing well in mind the respect they owe to their sovereign, must consult together and make up their minds to assist the imperial arms in the work of subjugation; and further that, as Yoho* of Aidzu assisted Tokugawa * * * in his rebellion, and committed flagrant treason himself by firing at the imperial banner, and is therefore to be attacked.

Your servant, Yoshnkuni,† is ordered to attack the castle of Aidzu with his own unsupported forces, and report a victory with all speed.

These orders have been received with the greatest respect.

Though Wakamatsu‡ is but an isolated castle of the northeast, that I, Yoshikuni, should be ordered to attack it with my own unsupported forces is a tribute to my military feelings which I cannot but be grateful for. I have issued a proclamation to my clan, and placed everything in readiness to march, so as to be ready to join in the expedition with the imperial forces as soon as the time comes.

My clan, however, being situated in a remote part of the country, on the shore of the Northern Sea, with long roads intervening between it and the capital, we do not understand with distinctness what are the views implied by the decisions of the court, and we learn the state of affairs in the home provinces by mere report, so that it is very difficult to ascertain the truth. In venturing, therefore, to submit the opinion of a remote and ignorant person, I humbly beg pardon for my presumption; but since free expression of opinion is permitted, I feel that I should be wanting in the duty of a subject if I were to abstain from giving utterance to my views; and I give these below without standing upon ceremony.

In the present return to monarchical institutions and reformation of imperial counsels, I venture to suppose that this important measure of putting the forces of the empire in motion to conquer Kuanto has not been decided on without mature consideration on your Majesty's part, but at the same time this should not be done unless the popular voice is in favor of it.

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* The name of the Prince of Aidzu, retired in favor of his son.
† The name of the Prince of Sendai.
‡ Aidzu,'s castle town. Aidzu is the name of the department in which it is situated.

The imperial manifesto declares that some time ago Tokugawa received your Majesty's orders to go to court upon your Majesty's business. He therefore proceeded to Kioto, with Aidzu and Kuwana as his advance guard. On the road to Kioto these two clans opened fire upon the imperial forces. That for this flagrant act of treason and rebellion, by which he became a traitor to your Majesty, your Majesty had appointed a commander-in-chief to punish him. But the manifesto of the retainers of Tokugawa * * * declares that, as the advanced guard approached the barrier gate, the Satsuma clan opened fire on them, and that they were thus forced into a fight; and it is reported that it was difficult, in the sudden breaking out of the disturbance, to ascertain distinctly who fired first. Your servant, Yoshikuni, does not mean for one moment to express a doubt of the truth of your Majesty's manifesto, nor to believe that of Yosinoba, (Tycoon,) but as it is so difficult to determine for certain which fired first, men feel considerable suspicion. This is reason the first, why the popular mind is unsettled.

It is hardly necessary to remind your Majesty that the ancestor of the Tokugawa put an end to several centuries of intestine wars, and that by his valuable instrumentality peace and a return to just principles were secured. For more than two hundred years war has slept and peaceful arts have been cultivated, so that the empire has enjoyed perfect tranquillity. By the lapse of time the military prowess (of the Shogoon's followers) became gradually less and less, until in 1853, and in subsequent years, the foreign barbarians flocked to the country in rapid succession, so that the popular mind became disturbed. It is possible that Yosinobu (Tycoon) failed to pursue the right course and committed many irregularities; but having lately returned the governing power to the imperial court in order that, by the consolidation of the government, and by pursuing an impartially just and magnanimous course, he might secure the tranquillity of the empire, how could he be plotting to rebel against the imperial court? This doubt is widely entertained, and forms the second reason why the popular mind is unsettled.

At the present moment the constitution is returning to its ancient monarchical form, and the government and laws are being remodeled; every one hopes to see the imperial fortunes attracting the admiration of the people, and taking the place of Heaven in giving them a principle to follow; whilst your Majesty, not only establishing a policy which shall last for all time, but loving the people as your children, they on their side would look up to you as a parent, and all men would fall into their proper places.

Therefore, to put the forces of the empire in motion and to plunge the innocent populace into the depths of misery and affliction is certainly most lamentable and deplorable, and there is scarcely one man but doubts this being really the will of our young sovereign. This is the third reason why the popular mind is unsettled.

It is reported that, since Yosinobu left [Osaka] he has remained quiet and submissive. Some years ago the retainers of Mori Daizen No Daibu actually fired at the palace. Through an accidental mistake, he was stigmatized as a traitor; but the truth having become clearly manifest, he was restored to his rank and permitted to enter Kioto by a liberal act of grace. And therefore, if your Majesty, disregarding the services of his ancestor, fixes on Tokugawa the brand of traitor when it is merely a question of who fired first, not only will the clans be alienated, but the common people must disapprove of your Majesty's actions. Most men share this feeling, and this is the fourth reason why the popular mind is unsettled.

The intercourse with the foreign barbarians is daily increasing, and there are ten or more countries of them at the present moment. If the forces of the empire are now put in motion and the state thrown into internal confusion, they will not sit quietly by and merely look on. What actions may they not commit at the command of their sovereigns? The national disgrace will be shared by all the nation, and men will not only be full of doubt, but also be animated by fear, alarm, and sorrow. This is the fifth reason why the popular mind is unsettled.

Taking all these things into consideration, I cannot help thinking that if your Majesty will delay for a short time the dispatch of the forces of the imperial court, and take the unbiased opinion of all the clans upon the subject of the condemnation of * * * and determine to act upon impartial consideration, unaffected by party feelings, he (the ex-Tycoon) will quietly submit, without its being necessary to fatigue the imperial forces. This is what I desire humbly to present my private petition for. The ancient saying makes the display of virtue, and not the display of military force, a test of the virtues of a sovereign. Haishinko's just decisions, which won the approbation of men, are also cited as an example worthy of imitating, and I wish, therefore, that your Majesty, making such objects your aim, would act so as to make this return to the ancient form of monarchical institutions a thing to last forever. Your servant, Yoshikuni, begs that your Majesty will take these his inmost feelings into profound consideration. Should your Majesty not do so, but, in a sudden fit of anger, and regardless of the approbation or disapproval of the people, make war without consideration, the concurrence of the clans will be by no means certain. The empire will be

split up. The men of rank will take up positions everywhere, and a state of confusion will ensue worse, ten times, than that of Keicho and Gemva, (the period immediately ensuing on Taikosama's death,) and the barbarians, taking advantage of the opportunity, will cause troubles such as have never been heard of in the empire before. This will be changing good fortune into bad, and be the worst possible policy. Your servant, Yoshikuni, grieves over this in secret, and though he is prepared to find that his foolish opinions and arguments are disregarded, he feels that, to be silent when there is such good opportunity for advancing the imperial fortunes, would be a great want of fidelity on his part. He has, therefore, presumed to exceed the privileges of his position, and to offer these considerations, with the most profound veneration, March, 1868.

SENDAI CHINJO.

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*Mr. Van Valkenburgh to Commander S. P. Carter.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 11, 1868.

SIR: At a conference held this day by the representatives of all treaty powers now here, with Higashi Kuze Saki No Shosho and Nabisima Hizen Jijiū, the commissioners for foreign affairs of his Majesty the Mikado, at their request, and upon their taking upon his Majesty's government sole charge and protection of this town, it was unanimously agreed that the soldiers and marines heretofore doing duty at the several posts within the town should be withdrawn on the 12th instant, at four o'clock p. m.

You will, therefore, please withdraw your marines from the post by them now occupied, at the time above designated.

I am, sir, your most obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Commander S. P. CARTER,
*Senior U. S. Naval Officer, Com'd'g U. S. Steamer Monocacy.*

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*Mr. Van Valkenburgh to General J. Stahel.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 11, 1868.

SIR: I am officially informed that the government of this town will to-morrow pass into the hands of the officers appointed by his Majesty the Mikado. At four o'clock in the afternoon of that day all the foreign soldiers and marines will be withdrawn from the posts now temporarily occupied by them, and the town will be under the protection of the Mikado's government.

Business will be transacted as usual at all the government offices, and the name of the officers appointed to transact the business heretofore conducted by the governors will be announced in a few days.

I am, sir, your most obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

General J. STAHEL,
*United States Consul, Kanagawa.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 52.] LEGATION OF THE UNITED STATES,
*Yokohama, May* 26, 1868.

SIR: I have the honor to transmit herewith No. 1, translation extract from a Yedo newspaper, showing that those men of Toda who died at

Sakai for the murder of eleven unarmed Frenchmen, as reported in my dispatch No. 25, of the 11th March last, had been canonized.

Only three newspapers, as far as known, are published in this country—two in Yedo, and one in Kioto or Miako. A strict censorship of the press existing, the communications of those newspapers may be regarded as official; the one published in the latter city is now being furnished, even to the foreign representatives, as the official organ of the new government.

I do not believe this new or Mikado's government willfully guilty of canonizing Japanese for the murder of foreigners, but feel assured that this solemn act is the work of some high priest or functionary, and that the Mikado's government is powerless to prevent such proceedings.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

[From the Nai Gai Sinpu, (Home and Foreign News,) published in Yedo, April, 1868.]

The following persons were ordered to commit hara-kiri (suicide) on the 22d day of the second month, (16th March, 1868,) at the temple Miokokuji, at Sakai, in Senshii. The bodies were immediately buried at the temple Hojiiin, at Yadoyamatshi:

1. Minura Inokitchi, aged twenty-five years. Canonized as Bemgi in Chioshu Gen Shio Koji. (Man of learning, righteousness, and fidelity.)
2. Nishimura Sakeiji, aged twenty-four years. Canonized as Gikoin Chitigen Shiodo Koji. (Man of good conduct and fidelity.)
3. Ikegami Yasokitchi, aged thirty-eight years. Canonized as Chin No Kasoku Koji. (Faithful man.)
4. Pishi Jinkitchi, aged thirty-six years. Canonized as Chin San Rioshin Koji. (Trustworthy man.)
5. Sugimoto Kogoro, aged thirty-four years. Canonized as Chin hei giko Koji. (Faithful warrior.)
6. Katskase Sauroku, aged twenty-eight years. Canonized as Chinsoku Chiojin Koji. (Quick and faithful man.)
7. Yamamoto Tetsk6, aged twenty-eight years. Canonized as Chin & Reijei Koji. (Faithful and eminent officer.)
8. Morimoto Mokitchi, aged thirty-nine years. Canonized as Chin sho Chiosa Koji. (Reliable officer.)
9. Kitashiro Kinsuke, aged twenty-six years. Canonized as Chin Ko Kinshio Koji. (Staunch and faithful man.)
10. Inada Kanojo, aged twenty-eight years. Canonized as Chin O Kana Koji. (Faithful officer.)
11. Yanase Tsune Shichi, aged twenty-six years. Trustworthy officer.

The person first named composed a few words of poetry in the Chinese, and the others likewise, but in the Japanese language, previous to their execution; these effusions all being to the effect that they considered it an honor to die in a noble cause, and that cause was to save their country from ruin, to which it is exposed from the advent of foreigners.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 53.] LEGATION OF THE UNITED STATES,
*Yokohama, May* 26, 1868.

SIR: With reference to my dispatch No. 46, of the 27th ultimo, I now have the honor to transmit herewith No. 1, copy of the affidavit of

Captain Jones, master of the American bark Dispatch, and No. 2, copy of my letter on this subject to our consul at Kanagawa, for transmission to the consular agent Mr. Frank, at Hiogo.

I hope soon to hear, for your information, from our consular agent that this matter has been satisfactorily settled.

I have the honor to be, sir, very respectfully your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. William G. Jones to General Julius Stahel.*

SIR: In obedience to your orders, I have the honor to state the circumstances of the alleged cause of the outrage committed by the Japanese officials on board my ship, on the 14th instant, at Kobé.

Mr. Heinaman, representative of Messrs. Aspinall, Cornes & Co., of Yokohama, had certain teas to ship, the duty on which was demanded by the custom officials of Kobé. Mr. Heinaman pointed out to them that, according to treaty, goods shipped coastwise from one port of Japan to another paid no duty; but on their demurring to this, he agreed to pay the duty under protest, or to give ample security that the vessel was bound for Yokohama, and that port only, and there discharge her cargo.

The above facts, sir, I ascertained from Mr. Heinaman, after the outrage was committed; the teas were sent off to my ship, accompanied by a shipping order from Mr. Heinaman, in broad daylight, (the hour about one p. m.) At that time there was a Japanese official from the customs on board my ship, who did not object to the tea being brought on board.

I took the tea in and gave a receipt for the number of chests, (two hundred and ninety-three.) After the tea was put in the hold it commenced to rain heavily. I had all my hatches and tarpaulins on. My chief officer, with about fifteen coolies, were storing the teas in the hold with lighted lanterns. About five p. m. my attention was called by two of my seamen coming aft, and reported to me that a squad—two-sworded men—had come on board, accompanied by three lighters, and had driven the coolies and my chief officer out of the hold and commenced to hoist the cargo out. On coming on deck I found the ship in charge of the Japanese officials, and had complete command of my vessel—by ordering my men to keep out of the way, and dared any one to interfere with their proceedings.

I forbade to touch a single package, at the same time pointing to my national flag, which was flying at the peak, and demanded of the principal officer by what authority he dared to step on board an American ship and disturb anything he saw. He answered me with contempt, and with the greatest *bravado* ordered his subordinates to go on and take the cargo out, and not mind me. I then ordered my chief officer to take the cargo tackle from them. On the mate attempting to obey my orders, one of the officials made an attempt to draw his sword; on a *revolver* being pointed at his head, he did not use his weapon, but they still continued to hoist out the tea, or rather tried to hoist, as I firmly resisted them personally from accomplishing the same by holding on the tackle fall. Seeing that it would probably lead to bloodshed by their continuing to enforce their depredation, I deemed it a wiser course, but with great regret, to ask for assistance, by reversing my ensign, union down, as a signal to the United States steamship Oneida. An armed boat came on board with an officer. On seeing the boat coming the head official jumped in his sampan and pulled on shore, leaving the rest of his subordinates on board.

The officer of the Oneida in command of the boat, returned to his ship and reported the outrage to his commander, upon which he was sent on shore by Captain Creighton to report the same to the consul.

General Paul Frank, United States consular agent at Kobé, came on board promptly but when he arrived the Japanese had all left. The following day I communicated to General Frank by letter, and stated the whole circumstances in detail. On the 16th instant I was still annoyed by the custom officials, notwithstanding Mr. Heinaman complied with all their demands and had proper permits to ship some more teas. Two officials came alongside of my ship and forbade my mate to take any of the cargo which was alongside, at the same time took them away. Fortunately I was, at that time, coming on board; seeing the lighters going off from the ship, I pursued them and compelled them to return back to the ship, as I was aware that there were proper per-

mits, as the same were produced to me by the shipper. I communicated the second insult to General Frank by a second letter, dated April 16th. The above is all the facts that I have any knowledge of regarding this unfortunate affair.

I have the honor to be yours, most respectfully,

WILLIAM G. JONES,
*Master American bark Dispatch.*

Sworn to before me,
[SEAL.]

JULIUS STAHEL,
*United States Consul.*

KANAGAWA, JAPAN, *April* 27, 1868.

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*Mr. Van Valkenburgh to J. Stahel, esq.*

LEGATION OF THE UNITED STATES,
*Yokohama, May* 5, 1868.

SIR: I have to acknowledge the receipt of your letter of the 27th ultimo, transmitting the sworn statement of Captain Jones of the American bark Dispatch, in regard to the interference by Japanese officers, the subject matter of the letter addressed to you by our consular agent at Hiogo, copy of which formed inclosure No. 1, with your letter to me of the 25th ultimo. Mr. Frank, our consular agent, in his letter to Ito Shunske, the superintendent of trade at that port, was quite right in insisting upon an assurance being tendered on the part of the Japanese to refrain in future from similar high-handed proceedings as therein referred to.

I cannot approve, however, of the tone of that letter, neither do I deem it advisable to insist, in the form of a demand, upon the Japanese discontinuing their boarding merchant vessels while carrying swords. This practice, though quite harmless hitherto, should certainly be abolished, whether such Japanese officers visit foreign ships or places of residence on business.

By pointing out its uselessness, Mr. Frank may probably succeed in obtaining a modification of this practice, and by so doing, with becoming moderation, it will, I trust, be easier for him to secure the acknowledgment and the observance of our undoubted right, that in all cases of complaint against American citizens no action whatever shall be taken by the Japanese authorities without the knowledge and consent, or at the request, of the consular officer of the United States.

I am, sir, respectfully, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

J. STAHEL, Esq.,
*United States Consul, Kanagawa.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 54.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 29, 1868.

SIR: I incidentally learned now, two weeks ago, that Japanese were being shipped as laborers, under contract to work on plantations in the Hawaiian Islands. This contract is said to be for a period of three years, at a fixed rate of wages. The vessel which was taking these people on board being English, I informally called her Majesty's minister's attention to this proceeding. Soon afterwards Sir Harry Parkes sailed for Osaka, as stated in my No. 50, of the 25th instant, and I heard nothing further on the subject than that this British vessel, the Scioto, suddenly put to sea on the 18th instant.

On the 27th (yesterday) I received a letter from the commissioners for foreign affairs, Hizen Jijin and Higashi Kuze Jijio, copy of which I herewith transmit, inclosure No. 1, informing me that those coolies had actually sailed in the Scioto, and that the manager in this affair was a Mr. Van Reed, an American citizen, and who appears to be acting at this port as consul-general of the Hawaiian Islands with the consent of the local authorities.

I transmit No. 2, copy of my reply, and No. 3, copy of a regulation

I deemed it necessary to establish, making the act approved February 19, 1862, prohibiting the coolie trade in China, applicable in Japan. I inclose No. 4, copy of a circular letter to the United States consuls in this country, transmitting a copy of this regulation for their guidance.

The act is entitled, "An act to prohibit the coolie trade by American citizens in American vessels," and may be literally construed so as to evade its provisions. Until otherwise directed, however, I shall, under section 3 of the act, hold such special pleading inadmissible, and that liability to the punishment prescribed is incurred by Americans as well for shipping coolies in foreign as in American vessels.

This government entirely disapproves of the shipment of their people in any other capacity than as voluntary emigrants; they will be able, no doubt, to prevent similar shipments in future, and there is every reason to hope, therefore, I am happy to say, that I shall have no infringement to report of the regulation issued, of which I trust you will be pleased to approve.

I am not provided with the Senate resolution of the 16th January, and your circular of the 17th January, 1867, in relation to the coolie traffic. I shall be greatly obliged to you for furnishing me with those documents, and any other that may bear on the subject, and in the mean time I shall endeavor to procure copies of the same from our consulate general in Shanghai.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Hizen Jijin to R. B. Van Valkenburgh.*

SIR: We beg to inform you that Mr. Van Reed, who is said to be consul-general for the Hawaiian Islands, made known to us that he was engaged in sending out three hundred and fifty of our countrymen to those islands to labor on plantations, and it was required of us to give them passports for that country.

One hundred and eighty of those people had, it seems, already been granted such permits by the late government. Terasima Tozo replied that, the treaty not yet having been concluded with Hawaii, we could not give them the permits applied for; but if he, Mr. Van Reed, insisted, we would grant them such permits, provided any one of the ministers of the treaty powers would sanction the transaction. Terasima was told by Mr. Van Reed that he would take it into consideration. Since then Mr. Van Reed wrote us that the ministers would have a meeting to confer on the subject.

On the 25th instant the ship on which our countrymen were bound suddenly sailed from this harbor, without any information from Mr. Van Reed of the decision taken at the conference by the ministers, and in spite of the notice previously given to him by the vice-governor, under our instructions, that we could not acknowledge the permission given to the said one hundred and eighty men alleged to have been given by the late government.

It seems to us to be improper that Mr. Van Reed has shipped at his pleasure the men to whom permission had not been given and before the matter had been settled, and we find from his actions that no distinction exists between foreign and treaty powers. We, therefore, sent him our vice-governor to ask his meaning, but instead of giving a reasonable answer, Mr. Van Reed told him that we should give the permission to the men to go to Hawaii or refund the money we had expended for their engagement.

Now we can have nothing further to do with him, as he has been so unreasonable in his discussion of this matter with our officers, and, therefore, understanding he is an American, we request you will fully acquaint yourself with the foregoing, and after finding out his motives inform us accordingly.

With respect and esteem, the 4th day of the 4th month, May, 1868,

HIZEN JIJIN.
HIGASHI KUZE JIJIN.

His Excellency R. B. VAN VALKENBURGH,
*Minister of America.*

*Mr. Van Valkenburgh to their Excellencies Hizen Jijin, Higashi Kuze Jijin.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 26, 1868.

I have the honor to acknowledge the receipt of your excellencies' letter of yesterday in relation to the shipment of Japanese to labor on plantations in the Hawaiian Islands.

According to the law of the United States the shipment on board of American vessels of Chinese to be held to labor is illegal, and an offense punishable by the forfeiture of such vessel and of fine and imprisonment of all those who have been engaged in such nefarious traffic.

As soon as I learned that the Scioto had been chartered to transport Japanese laborers to Hawaiian Islands, and that she was a British vessel, I called the attention of the British minister to that fact.

It now appears, from your letter under reply, that this vessel sailed without a proper clearance from the custom-house, that the Japanese on board had no proper passport, and that the manager in this affair is Mr. Van Reed, an American citizen and resident at this port, who has acted in this instance as the consul-general of the Hawaiian kingdom.

With this action of Mr. Van Reed in that capacity I could no more interfere than with the action of British ship-masters and other subjects.

While I extremely regret the occurrence, and while I feel sure you will prevent it being repeated, I can only say that, as soon as your excellencies shall have determined what course you will adopt to remedy the present difficulty, I shall be most happy to lend you my influence and aid in procuring a satisfactory solution of the same.

I transmit herewith copy of a decree I issued this day, and immediately after your letter under reply had been translated.

I have the honor to be your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

Their Excellencies HIZEN JIJIN,
HIGASHI KUZE JIJIN,
*Commissioners for Foreign Affairs, &c., &c., &c.*

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[Coat of arms of the United States.]

*Decree.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 26, 1868.

In pursuance of the 4th section of the act of Congress giving certain judicial powers, &c., approved June 22, 1860, I, Robert B. Van Valkenburgh, minister resident of the United States in Japan, do hereby decree the following regulation, which shall have the force of law in the courts of the United States in Japan.

The act of Congress to prohibit the coolie trade, &c., approved February 19, 1862, and which was framed with regard to China, is hereby made applicable to Japan.

[SEAL.]

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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*Mr. R. B. Van Valkenburgh to J. Stahel, esq.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 26, 1868.

SIR: I have the honor to transmit herewith, for your information and observance, copy of a regulation established by me this day, making the act of Congress, to prohibit the coolie trade in China, equally applicable in Japan.

I am, sir, respectfully, your obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

J. STAHEL, Esq.,
*United States Consul, Kanagawa.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 55.] LEGATION OF THE UNITED STATES,
*Yokohama, May* 30, 1868.

SIR: When the commissioners for foreign affairs, Hizen Jijin and Hagashi Kuze Jijin, arrived here on the 11th instant, they presented the legation, on the occasion of their visit to me, with a set of official or government gazettes, published in Kioto, up to No. 9; only the sixth number was omitted. This contained, I learned, an article on religion. I promptly succeeded in procuring a copy, and then found, to my extreme regret, that this article was nothing less than a proclamation by the Mikado prohibiting Christianity in Japan.

I inclose herewith No. 1, translation of that proclamation, and No. 2, copy of a circular letter I at once addressed to my colleagues, the representatives of the treaty powers, inviting them to co-operate, with the view of procuring from the Mikado the repeal of that proclamation.

At a conference of the representatives, held in pursuance of my invitation, it was unanimously agreed to address an identical letter on this important subject to the commissioners for foreign affairs, copy of which is herewith transmitted, inclosure No. 3.

The British minister was not present at that conference; he has since returned from Osaka, and cordially assented to our proceedings.

I still hope to be able to communicate to you the reply of the commissioners by this mail.

While at Osaka the British minister heard of the issue of the proclamation, and promptly had an interview with the Mikado's minister on the subject, the result of which he furnished me in a letter, copy of which I inclose, marked No. 4.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

*Proclamation Board No.* 3,

The Christian and other evil religions are strictly prohibited. Any person suspected of violating this commandment must be reported to the proper officers, and the reporter shall be rewarded.

The 3d month of the 4th year of Ke Wo, (April, 1868.)

GOVERNMENT OFFICE.

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*Mr. Van Valkenburgh to His Excellency Leis Roches.*

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May* 23, 1868.

SIR: I herewith transmit, for your information, translation of a proclamation issued by his Majesty the Mikado during the last month, and which appeared in the Daijokan Neahi, (No 6,) the official organ of the Japanese government, published at Kioto.

The prohibition of Christianity is an act so deeply affecting the important interests the foreign representatives have the honor to represent, that I have deemed it my duty to invite your co-operation in concerting the measures it may be necessary to adopt

with a view of inducing the Japanese government to promptly retrace their steps and revoke the offensive proclamation in question.

I have the honor to be your most obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

His Excellency LEIU ROCHES,
*His Imperial Majesty's Minister Plenipotentiary in Japan.*

And to the other foreign representatives; same date and tenor.

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LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, May 26, 1868.*

The undersigned has learned, from the sixth number of the official Gazette so kindly furnished him by your excellencies, that his Majesty the Mikado has issued an edict prohibiting Christianity throughout this empire, designating it as an evil religion, and offering to reward those who report any person suspected of an infringement of this law. The same edict has been affixed to the notification boards at the entrance of all the native towns and villages, and also of Yokohama.

While disclaiming any intention of interfering with the internal affairs of Japan, I deem it my duty to call your excellencies' attention to the fact that the Christian religion is the religion I have the honor to represent; that my government has the most friendly relations with the government of Japan, and that the issue of such an edict as that above mentioned will tend to affect those relations, apart from its being in disaccord with the ever-enlightened spirit of the age.

As the representative of a Christian nation, I urge upon your government the reconsideration of this important matter, and trust I may soon be informed that this respectful but earnest appeal to the enlightened and humane feelings of his Majesty the Mikado has led to a prompt repeal of this edict, so little in accordance with the often-repeated assurances of friendly feelings to foreigners and their institutions, which your government has given to the representatives of the treaty powers.

I respectfully ask your excellencies to lay this letter before his Majesty the Mikado.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Their Excellencies HIZEN JIJIN and HIGASHI KUZE JIJIN,
*Commissioners for Foreign Affairs, &c., &c., &c.*

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*Mr. H. S. Parkes to Mr. Van Valkenburgh.*

BRITISH LEGATION,
*Yokohama, May 29, 1868.*

SIR: On my return to Yokohama, on the 27th instant, I had the honor to receive your letter of the 23d, drawing my attention to the edict against Christianity, which is published in the sixth number of the Kioto Gazette.

I share most fully with yourself the concern which you feel on finding that the old prohibition against the Christian faith has been revived by the new government, and it may be interesting to you to know that my recent visit to Osaka gave me an opportunity of conveying to the highest sources of the Mikado's government similar remonstrances to those which, I understand, have been addressed by yourself and all our colleagues to the Japanese ministers who are at present here. At a meeting at which I was received on the 19th instant by several of the principal personages of the Mikado's court, I endeavored to impress upon them the injurious effect which the republication of this edict is calculated to create upon all nations who have treaty relations with Japan, and who without exception profess the faith which is not only proscribed by this edict, but also unjustifiably stigmatised as an evil sect. Such a measure, I pointed out, was incompatible with the professions of a friendship recently offered by the Mikado to the treaty powers, and was calculated to defeat those efforts which are being made upon the spot to bring about intimate relations between foreign countries and Japan.

I was also able to urge in the sense in which I have been instructed by her Majesty's government that religious zeal is more likely to be inflamed than subdued by persecution, and that, although it may not yet suit the Japanese system to openly recognize the profession of Christianity by nations, it would be better that the Japanese government should exercise all the toleration in their power rather than acquire throughout Europe and America the reputation of persecuting the faith accepted in those conti-

nents, and so incur the ill will of all civilized nations to whose feelings religious persecution is most abhorrent.

I am bound to say that the Mikado's ministers received my observations in good part, and promised to give them attentive consideration. They dwelt in courteous but decided terms on the difficulties which lie in the way of the toleration of a faith which is connected with painful antecedents in their history, which appeals to feelings of the deepest sectarian animosity, and is unfortunately regarded by the Japanese as subversive of their existing political system. I could not feel surprised that remarks of this nature should be returned to those which I had advanced, but the tone in which they were urged left me reason to hope that the Mikado's government is not wholly indifferent to the opinions of foreign governments on this subject, and may therefore be willing to listen to the representations which they have almost simultaneously received from the consuls of all the treaty powers at Nagasaki, the foreign representatives at Yokohama, and from myself at Osaka.

In conclusion, I have to acknowledge your considerate invitation of co-operation, and to assure you that I shall always be disposed to join with you and our colleagues in endeavoring to gain by friendly means the tolerance by this government of those sentiments which belong to the highest sympathies of all Christian states.

I have the honor to be, sir, your most obedient, humble servant,

HENRY S. PARKES.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

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### *Mr. Van Valkenburgh to Mr. Seward.*

No. 57.] LEGATION OF THE UNITED STATES,
*Yokohama, June* 4, 1868.

SIR: Since writing my dispatch No. 50, of the 25th ultimo, but little of political importance, as far as known, has transpired.

I have the honor to transmit, No. 1, a translation from the last number of the Kioto or official gazette, giving a petition of the naval and military forces of Tokugawa, and also a letter from the commanders of the coalition under the Mikado's flag at Yedo to the representative of that family in that capital, upbraiding him for the non-delivery of the ships of war.

I also transmit inclosure No. 2, translation of a letter addressed to the supreme authority, distinctly stating that, unless the late Tycoon be recalled from exile, and his former power as chief of the great Tokugawa clan be restored, no peace can be expected.

This letter is written by an officer eminent for ability, and who to the fullest extent enjoyed the confidence of the representatives of the hostile coalition as well as that of the late Tycoon, his fidelity to whom, though often suspected of late, is now well proven.

It may be presumed that the moment for writing this letter has been well chosen, and that the suggestion would not have been made unless the writer felt quite sure of there being no other alternative than acceptances. Since the renewal of the conflict on the 9th ultimo there have daily been skirmishes and engagements, and in nearly all of those have the forces of the new government been defeated.

Reports reached here of consignments having been made to eminent personages of heads captured in battle, and of frequent poisoning of enemies, the assassination of messengers, &c., &c., all the horrors of civil war let loose upon this country. The common people, apparently quite unconcerned hitherto, now seem in many places to prepare for action in self-defense.

The Mia-Sama, or great temple lord of Yedo, has been urged by the chiefs of the coalition under the Mikado's flag to remove to Kioto. His departure has been delayed, the people en masse petitioning him to remain.

This high dignitary is strongly in favor of the Tokugawa interest, and his influence in Yedo is very great. To remain accords with his inclination, but the chiefs above mentioned may attempt his removal by force, when, it is said, the people in the most respectful manner will block the way; and further, that if force to disperse them be resorted to, they will, under the leadership of the Yedo firemen, take up such arms as they can find and resist. The attitude of the people on this question is reported as quite determined, and may probably deter the military from attempting such a flagrant breach of custom.

From the north the reports are that the coalition against the new or Mikado's government is steadily gaining strength and solidity, though still held back by the influence of the late Tycoon from taking the field. The Prince of Seudai received orders from the Mikado's government to attack the Prince of Aidzu, his friend and neighbor; the time granted for the necessary preparations having expired, it is reported Seudai began to move. According, however, to a previous agreement made between these two northern Daimios, all that Aidzu needed, such as artillery, small-arms, blankets, &c., &c., was sent to the front by Seudai, who then opened fire with blank cartridges. Aidzu's soldiers then advanced with a rush, those of Seudai fled. Aidzu in this manner became well provided, and Seudai is now supposed to be powerless to repeat the attack.

In the evening of that day the chiefs of those two Daimios forces met at supper, and then agreed upon an account of the engagement to be sent to the Mikado; such account may thus be looked for within about a week.

By the mail from Nagasaki and Hiogo, which arrived here late on the day before yesterday, no intelligence of any importance was received from those places. The Mikado is reported to have returned to Kioto.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation from the Kioto Gazette, No. 11.]

REPORTS FROM YEDO.

Account of the entrance of the imperial envoys into the castle, and communication made by them, on 26th April, of the following ultimatum:

ARTICLE I. Since the twelve month of last year, (January, 1868,) Keiki has practiced deceit upon the imperial court. In aggravation of this, he has used arms against the imperial capital, and for several days continued to fire against the imperial standard. The government forces were dispatched to punish him for these flagrant offenses. Upon this he displayed a sincerely obedient and submissive temper, and acknowledged his fault. His ancestors, in governing the country for more than two hundred years, have performed much good service, and the late Dainagon of Mito* also, for many years, diligently served the imperial cause. His Majesty is therefore graciously pleased to take these things into account, and, the following conditions being faithfully performed, he will extend his clemency so that the name and family of Tokugawa shall continue, and Keiki's sentence of death being commuted, he shall retire to Mito and live there in seclusion.

ART. II. The castle to be evacuated and handed over to the Owari clan.

ART. III. Vessels of war and firearms to be surrendered; a suitable proportion of these shall afterwards be returned.

ART. IV. Retainers resident in the castle to retire outside, to remain in seclusion.

ART. V. The persons who assisted Keiki in his rebellion are guilty of flagrant offense:

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* The ex-Tycoon's father.

they deserve the severest punishment, but by his Majesty's special clemency their lives are spared. A report must be made of those punished. The imperial court will deal with those who possess revenues above ten thousand koku, (*i. e.*, daimirs.)

The document contained these terms, and was handed over by Hashimoto and Yanagrivara in the Olivoma (chief hall of audience in the castle) to Sayasu Chiunagon, and the following verbal announcement was added:

"The deceitful conduct of Keiki towards the imperial court, ending at last in the most infamous actions, has deeply grieved the imperial bosom. In consequence his Majesty has made war upon him in person, and forces have been sent against him by sea and land from all sides. Upon this, Keiki becoming repentant and submissive, his protestations of sincerity were permitted. His Majesty, with superabundant clemency, has therefore decreed these terms, which must be respectfully accepted. By the 3d of May these conditions must be fully carried out.

"The time allowed being perfectly ample, no petitions or prayers will be listened to. His Majesty is fully determined that his dignity and clemency shall both be maintained. Let there be instant acceptance, and no disputing."

He (Tayasu) answered that he received with the highest respect the orders thus communicated to him; that he would inform Keiki of them, and that acceptance should be given in.

The above account of the entrance of the imperial envoys into the castle yesterday, and the reading of the terms, is communicated for your information.

Since it is, however, impossible to predict that no acts of violence will be committed, (by deserters from Tokugawa, &c.,) the different camps will keep watch and be on the alert, mounting guard with great vigilance.

(Signed,)

LIEUTENANT GENERAL OF THE BAN. [SEAL.]
COMMANDER-IN-CHIEF OF THE BAN. [SEAL.]

APRIL 27.

On the 28th, the terms offered having been communicated to Keiki, Tayasu Chiunagon sent up his acceptance of them. On the 3d May, two thousand infantry (of Tokugawa) deserted.

On the same day all the forces on the Tokaido advanced and took over possession of the castle, and of military weapons. The castle was placed in charge of the Owari clan.

On the same day, at dawn, Keiki left for Mito.

On the evening of the same day five hundred infantry (of Tokugawa) deserted.

On the night of the same day, more than one thousand infantry encamped at Kudanzaka were intrusted to the clans leading the van on the Tokaido.

*Petition presented by the naval and military forces of the Tokugawa family.*

We petition that, as soon as the successor of the Tokugawa clan is appointed, the castle may be temporarily intrusted to the charge of Tokugawa Kamainoike. Although it is great presumption on our part to do so, we beg his Majesty to bestow on us the boon of not making the Owari family successors to the Tokugawa.

With respect to men-of-war and military weapons, we beg that these may be retained until his Majesty re-establishes the Tokugawa family, and the revenue and territory are settled, and that a suitable proportion being then retained the remainder may be surrendered.

We petition that you will use your influence to procure for us, by a special exercise of his Majesty's clemency, the acceptance of these two clauses. We are aware that thus venturing, guilty as we are, to prefer these petitions, we may be incurring the imperial anger, and disobeying the wishes of our chief, Keiki; but, at such a time as this, to regard a few years of life more than eternal disgrace, and to obey the order with resentment in our hearts, would be for both army and navy to have left the duties of retainers unfulfilled. We therefore humbly beg that you will condescend to appreciate these feelings of us all, and kindly assist us in causing them to have effect, (with higher authorities.) We humbly and respectfully present this petition.

(Signed,) The whole of the army and navy.

APRIL, MAY, *(4th month.)*

The above petition was handed to the yambó (military secretary to the commander-in-chief) by Okuboo Ichi-ó and Katsu Aga in person; but it was replied that the imperial decision being immovable, it was impossible for the petition to be acceded to.

Seven men-of-war, crews amounting to two thousand men: Kankó, six guns; Banriu, four guns; Irin, twelve guns; Chóyó, twelve guns; Fujesan, (Fusiyama,) twelve guns; Kaiten, (Eagle,) eleven guns; Kaigó, twenty-six guns. These vessels were to have been taken over by the naval commander-in-chief on the 3d instant, but the officers were unable to land in consequence of the high sea that was running. Permission was

therefore requested to delay until the next morning, which request was granted. Next morning, however, not a single vessel was to be seen, and on inquiry being made, the following document was produced:

*Representation of the commander of the navy of the ex-Tycoon.*

I have the honor to inform you that the reason on account of which the vessels belonging to my (*i. e.*, Tokugawa) clan leave the anchorage this morning is as follows: Some days ago the army and navy forwarded through Okubo Ichió and Katsu Awa a petition to the quarters of the commander-in-chief. While the whole fleet was still in a state of suspicion and uneasiness as to the order about surrendering the war vessels, a high officer, charged with that duty by our master, Keiki, sent to the Shinagawa anchorage to say that the war vessels were all to be surrendered without our waiting to hear what the answer of the commander-in-chief might be. This order affected the feelings of every one very strongly, and as any misconduct would be in direct opposition to the wishes of our master, Keiki, and also highly inexcusable in the eyes of the imperial court, we have withdrawn to the coast of Awa and Kadzusa in order to quiet these feelings, and to await the orders of the commander-in-chief. It is with no object of lurking in some position of advantage, and for keeping a lookout for what may happen, that we have done this; and we venture to hope, therefore, that the vessels of the imperial navy will not entertain any suspicions as to our intentions. I have addressed the inclosed letter on this subject to Ohara Jijin Sama, but take the liberty of reporting it to you gentlemen also. I beg you to judge by your own feelings what are the emotions of loyalty to Keiki which animate our clan, and also to appreciate kindly the trouble I have taken; and if you would represent those matters in the proper quarter I should esteem it a great favor. I therefore forward this to your excellencies, with the inclosed letter, which I beg you kindly to put in Ohara Sama's hands as soon as possible.

I have, &c.,

ENOMOTO IDZUMI.

MAY 4.

Their Excellencies the OFFICERS OF THE MO-JIUN MARU,
*Hizen's ship the Eugenie.*

*To Tayasu Chiunagon:*

The vessels of war were to have been handed over on the 3d instant, but it was decided that they should be surrendered the following morning on account of the violence of the weather prevailing. However, during the night, all the vessels left with their crews on board; it was your duty to recall them at once and surrender them. We are informed that you acknowledged this to the first division of the naval forces, and that you requested a delay on the ground that you could not fix a day on account of its being necessary to reach the said vessels by sea. The said war vessels formed an article of themselves in the terms offered on the 26th April, and are machines of the highest importance. Moreover, not only in the castle did you accept the terms, but you also gave an engagement in writing to take measures for the fulfillment of the imperial terms. What sort of action is this, then, that has been taken in disregard of those terms? Unless you yourself pursue these vessels in a swift boat, and arrange for their surrender at once, the clan and name of Tokugawa may have to suffer for it. Therefore consider this well.

COMMANDERS OF THE ADVANCE, BY THE TOKAIDO.

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*To the supreme authority, Daisotokunomiya:*

I, Yoshikuni, overcome by fear, and with a palpitating heart, acknowledge the exceedingly great honor conferred on me by granting me full power to tranquilize Yedo.

Great was my reward when my strenuous exertions to meet the present difficulties were graciously acknowledged, and deeply did I appreciate the privilege with which I was honored of expressing my opinion on all subjects and on all occasions freely and without hesitation. Strict fidelity is the basis of my conduct, hence I must confess my deficiency in intelligence and ability. No service I ever rendered deserved the honor bestowed on me. For these reasons I dare not accept the full power so kindly granted me, apprehensive as I feel that such course will be the cause of disaccord in the imperial court, and of opposition to the public feeling. The tranquility in Yedo from the time when the imperial forces entered the Quanto (eastern Japan) up to the day the castle was surrendered was entirely owing to two causes—the great virtue of the Mikado, which aroused the veneration of the people, and the true and sincere submission of my master to the imperial court. Certainly no exertions of mine are entitled to any credit for that result. Not only did my master Yoshihisa (Yoshinobu) waive all his individual rights, but he surrendered all he held from his ancestors; and while he is in strict seclu

sion, undergoing punishment, his sincere desire to promote respect for the Mikado's court and the peace of the empire has never abated. Even on the very day the imperial forces entered the castle, the city was so quiet as if there was nothing unusual, and it seemed as if the people rejoiced at the benevolence of the Mikado as they would at showers in spring. The gracious kindness of the Mikado was felt throughout the length and breadth of the land, yet equally was the true submission of my master to the Mikado's court appreciated. I should have warned my master before his action gave offense to the imperial court, but being deficient in intelligence I failed to do so, and hence the imperial forces had to take the trouble to attack him, and a general disturbance arose in the country, and we may well be apprehensive lest trouble unforeseen break out at any moment, and the foreign nations spying our weakness may make it an opportunity for sinister designs. I am utterly powerless to tranquilize Yedo, and to secure the safety of the people of this country. Only one person in my opinion is fit to discharge that important duty, and that is Yoshihisa, (Yoshinobu,) whose earnestness, as I stated above, secured the affection of the people, who will follow wherever he leads. I feel sure that if the Mikado in the liberal exercise of his clemency would order him to return to Yedo and reside there, the people would soon follow in his wake, and tranquility will gradually be restored and in a manner so as to render further orders for that purpose quite superfluous. It may be said that it is not consistent with the dignity of the imperial court if Yoshihisa (Yoshinobu) be called back to the capital so soon after his departure and before his misdemeanor has been pardoned, but even a wicked man by repenting and reforming can become a good man in a moment, and Yoshihisa (Yoshinobu) is not a bad man; he was only guilty of an error of judgment; he lost the control of his subjects, and thus gave offense to the imperial court. For this he has constantly reproached himself and did penance, and in all respects, therefore, he is entirely changed. The time has arrived when difficulties beset this country everywhere for the Mikado to govern with benevolent dispensation, and by so doing greatly benefit this empire. It may seem that I am acting exclusively for my master's interest by submitting the foregoing, but my unflinching fidelity and trustworthiness may be relied on, and many followers of the supreme authority, I submit, are aware of this.

KATS AWA.

4th (leap) month, about the 30th May, 1868.

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 53.] DEPARTMENT OF STATE,
*Washington, June* 8, 1868.

SIR: In my No. 51 I had the honor to acknowledge your written dispatches from No. 8 to No. 14, inclusive.

In my No 52 I acknowledged your dispatch of the 28th of April, which came by telegraph from San Francisco.

I have now to acknowledge the receipt of several of your more recent dispatches, as follows, namely: March 4, No. 24; March 11, No. 25; March 16, No. 26; March 23, No. 27; April 2, No. 31; April 3, No. 32; April 3, No. 33; April 8, No. 35; April 8, No. 36; April 14, No. 38; April 18, No. 39; April 19, No. 40; April 23, No. 41; April 27, No. 44.

These communications continue the narrative of political events and transactions which have occurred in Japan down to the date of your exceptional telegraphic dispatch of April 28, before mentioned. We have thus the proceedings of the Mikado's government, and the consultation of the representatives of the treaty powers concerning the redress which had been previously demanded for the attack which was made by the soldiers of the Prince of Bezen on the foreigners residing at Hiogo, on the 4th of February last, which proceedings were consummated by the execution of the offending Japanese officer, Taki Zensaboro, and the apology subsequently made by the Mikado's government to the United States and European ministers; your departure with the other western representatives from Hiogo to Osaka; the condition in which you found that city and the lodgings of the legation there; the visits of ceremony

which were received by yourself and other ministers at Osaka from the commissioners and other official agents of the Mikado; the verbal invitation given to you to visit the Mikado at Kioto; your waiver of that visit for a time; the atrocious massacre committed by a band of armed Japanese upon officers and seamen of the French ships of war Venus and Dupleix when peacefully engaged in surveying the Bay of Saki, in the suburbs of Osaka; the consultations of the ministers upon that subject, and the representations mutually made between the French minister and the Japanese government concerning the same painful transaction; your departure from Osaka, and your arrival at Yokohama on the 14th of March; the good condition in which you found the affairs of the legation there; the announcement you received there of the Tycoon's determination to surrender the city and port of Yokohama to the Mikado when thereafter required; the dismissal of the late Gorogio from office; the march of the Mikado's troops towards Yedo; the proceedings which you took, in concert with the representatives of the other western powers, to discontinue temporarily the issue of passports to foreigners seeking to enter Yedo; the arrival of a disorderly vanguard of the Mikado's army at Yokohama, and the measures judiciously taken by yourself, in concert with four associates, for protecting the several legations and the peace of the city during the stay of those troops; the visit made on the 22d of March by the representatives of France, Great Britain, and the Netherlands to the Mikado; the felonious assault made by Japanese fanatics upon the British minister on his way to the same audience; the atonement made for that offense by the Mikado; and also the ample satisfaction which the Mikado's government so promptly made by executing the persons who had assassinated the French officers and seamen, and paying a money indemnity of one hundred and fifty thousand dollars for the relief and support of the families of the victims; the Mikado's proclamation denouncing the Tycoon and his associates as rebels, and depriving them of office and rank; the statement of the Tycoon upon that subject made to the French minister for the information of the western powers; the proclamation of the Mikado's government forbidding and denouncing all assaults upon foreigners under penalties of degradation, capital punishment, and infamy; the arrival of the advance guard of the Mikado's army, on the 5th of April, at Yedo; the excitement which followed, and the unconclusive parleys which were had between the belligerents; the precarious condition of the public peace there; the application of yourself and associated foreign representatives made to the Mikado's government for the appointment of officers by that government for the northern and eastern parts of the island of Niphon, and the proceedings, promising favorable results, which were taken in the direction thus indicated by those ministers; and, finally, the arrival of the Stonewall, under the Japanese flag, and her being placed temporarily under the flag of the United States in the manner which had been suggested by you in your previous communications.

It affords me pleasure to assure you that the President has derived much satisfaction from the methodical and lucid history you have thus given us of internal conflicts in Japan, which otherwise would have remained, in a large degree, unintelligible. I sincerely hope that your expectations of a speedy return of peace, tranquillity, and order in that great empire have been already, or may soon be, realized. Whatever has been done by yourself and the other representatives of the western powers in this relation seems to have been necessarily, as well as judiciously, done; it is therefore approved.

I find, also, little occasion for modifying or enlarging the instructions

which have been heretofore given by this department concerning the Stonewall. A statement of the accounts between the two governments concerning that vessel has been prepared, and it will accompany this dispatch.

You will, without waiting special instructions, recognize the authorities which shall seem to be accepted and approved by the Japanese people, proceeding, however, in this respect, as on all other occasions, upon due consultation and in harmony with the representatives of the other western powers. When that recognition shall be made, or shall be ready to be made, you will then apply to the Japanese government for the moneys in arrears to the United States, including all the expenses actually incurred in taking and holding possession of the Stonewall, and, on the payment or fair adjustment of the accounts, you will, without further instructions, deliver the Stonewall to the authorities of the empire.

I give you, also, a statement of what is called the Japanese indemnity fund. It will be expedient, and perhaps necessary, to secure, at the same time with the settlement of the Stonewall account, a recognition, if not an immediate liquidation, of the indemnity debt.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 54.] DEPARTMENT OF STATE,
*Washington, July* 14, 1868.

SIR: Your dispatch of the 30th of May, No. 55, has been received.

You gave me therein a copy of a proclamation which was issued by the government of the Mikado, in April last, whereby it is proclaimed that "the Christian and other civil religions" are strictly prohibited; that any person suspected of violating that commandment must be reported to the proper officer, and that the reporter shall be rewarded.

You inform me that you have lost no time in conferring upon that transaction with the representatives of the other treaty powers; that the conference thus sought resulted in a unanimous agreement to address an identical letter of protest against the proclamation to the commissioner of foreign affairs. You have given me, also, a copy of the protest which you addressed, in execution of this resolution, to the Japanese commissioner. Your letter is also accompanied by a copy of a correspondence which has taken place between yourself and her Britannic Majesty's minister upon the subject of the proclamation, from which correspondence it appears that the British minister concurs in the measures you have adopted.

Your proceedings, thus recited, are entirely approved and commended by the President. He regards the proclamation as not merely ill-judged but as injurious and offensive to the United States and to all other Christian states, and as directly conflicting with the eighth article of the treaty between the United States and Japan of 1858, and no less in conflict with the tolerating spirit and principles which prevail throughout the world. You are advised, therefore, that the United States cannot acquiesce in or submit to the Mikado's proclamation. This decision will be directly communicated from this place to the several powers who hold treaty relations with the Japanese empire.

You are authorized to make the same known to the representatives of those powers in Japan.

The United States do not desire to add to the civil disturbances which are now unhappily existing in Japan by awakening religious prejudices or passions. Such a course of proceeding would be equally unfriendly to Japan and inconsistent with the accepted principles of the Christian religion. You are, therefore, instructed to act in the matter without any unnecessary demonstration, and in concert with the representatives of the other western powers. I assume that they will be instructed to co-operate with you in the endeavor to obtain the repeal or abrogation of the offensive proclamation. You will be expected to seek this object in a peaceful and inoffensive manner, avoiding publication of your proceedings as far as shall be found practicable and expedient. You will, nevertheless, be expected to proceed in the matter with firmness and without practicing any injurious hesitation or accepting any abasing compromise.

If it shall be necessary, you will distinctly inform the Japanese authorities that this government will regard it to be an imperative duty to protect the lives and property of citizens of the United States against any persecution which may be instituted under the Mikado's proclamation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 59.] LEGATION OF THE UNITED STATES,
*Yokohama, June* 14, 1868.

SIR: The intelligence of the return of the Mikado from Osaka to Kioto, reported in my dispatch No. 57 of the 4th instant, has been fully confirmed. It would appear that a majority of the prominent members of his court, from the beginning, objected to such a departure from the ancient customs as a Mikado leaving his palace, and that in deference to their wishes the Daimios who have the Mikado in charge were compelled to hasten his return.

The reports that reach us from that part of Japan are not satisfactory. In the great province of Owan there are now two parties—one in favor of the old and the other in favor of the new government—and the presence of Daimio in person has been insufficient to prevent hostilities. The same appears to be more or less the case in other provinces.

In this part of Japan skirmishes are occasionally reported, and it seems as if the war had somewhat subsided.

Of the southern, or Mikado's army that came here, and which was estimated at about twenty thousand men, a small portion is now attempting to reconquer the province of Etshingo, in which Neegata is situated. The remainder of about ten thousand men, all that is said to be left, now hold the castles of Mibu Utshinomiza, Koga, Yuki, Tatebayashi Simodate, and Sekiyado. There are probably not more than five hundred of those southern troops at present in Yedo, and they are seldom seen in the streets.

A portion of that city is patrolled by squads of about twenty men occasionally, and this patrol duty is also performed by Tokugawa men, who are apparently in the majority, yet no fighting takes place between the forces of the contending parties.

Those of the Tycoon's or Tokugawa officers who, on the first approach of the southern troops, tendered their resignations, were promptly mustered out of the service, and those who remained faithful have regularly been in receipt of their salaries. All those officers have uninterruptedly continued to discharge their duties, totally ignoring the presence of the southern troops. At the few points where these are stationed, they levy, in the name of the Mikado, contributions on the people for their subsistence, and these requisitions are promptly met. In other respects they remain isolated, and exercise no authority whatever.

What renders this state of affairs still more anomalous, as far as understood, is that the late Tycoon or Tokugawa, in addition to the two thousand shogitai (volunteers) in Yedo, has enlisted some three thousand more of these men. Those who as ronins (guerillas—that is, by fighting on their own responsibility) have so distinguished themselves, withdrew principally to northern castles in or near Aidzu's province, whither the southern troops appear disinclined to follow them; and now the principal question is, will the Mikado's government persist in attempting the confiscation of all the Tokugawa property or not? In the latter case there is a probability of an early settlement, but in the former there will be war to the knife. I am informed this question is expected to come up for solution within three weeks, as soon as the rice shall have been planted in the northern provinces; perhaps it will not be solved for three months.

In the meantime southern troops are being conveyed in English steamers to this part of Japan, where a great anxiety for reenforcements is manifested by the chief officers of the Mikado's government. Their losses in fights, from murders, poisoning, &c., have been severe, and necessitated the isolation of the remainder in the castles named. At a conference of the foreign representatives, I called the English minister's attention to this violation of his neutrality proclamation, but as yet no action appears to have been taken by him. The American steamer Kaga No Kami, at this port, was taking armed men on board to be sent to fight at the north, as the ministers for foreign affairs candidly informed me. She was, however, promptly seized by Commander English, of the Iroquois, on the 12th instant, and will be released as soon as satisfactory security for her due observance of neutrality shall have been given.

This neutrality I consider it my duty strictly to maintain. I respectfully decline to listen to overtures for the transfer of the Stonewall, repeatedly made within the last few days by the representatives of the Mikado's government, assuring them that I must await the instructions applied for. This great anxiety to obtain possession of the Stonewall, and to re-enforce the troops who are operating in this part of Japan, conclusively shows that there is great need for maintaining neutrality between the belligerents. An official letter was received from the Mikado's ministers for foreign affairs, yesterday, informing me that the war was over, but I prefer to believe the evidence of my own eyes; and notwithstanding the pressure that is unceasingly brought to bear upon me for the withdrawal of my neutrality proclamation, I shall take no steps in this matter, at all events until the next steamer from San Francisco, now due within two weeks, shall bring me the instructions I am awaiting with solicitude. I transmit, inclosures Nos. 1 and 2, copies of two interesting documents bearing on the present political situation of Japan.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

[Translation from No. 10 of the supplementary issue of the Yeddo Home and Foreign News.]

*Memorial of a person holding high office in the house of a certain prince of the blood.*

I respectfully present the following memorial:

The objects of our late prince (the Mikado Komei Tenno) were the enrichment of the people, the strengthening of the national defenses, homage to hereditary authority, loyalty to the court, the reform of meanness, and the practice of highmindedness.

I should have expected these intentions to have been taken as a model in returning to the ancient form of government by the sovereign; but, on the contrary, that policy which is the foundation of these aims has not been carried out. War and foreign intercourse alone have been deemed the pressing requirements of the time, and this return to the ancient form of government by the sovereign cannot, therefore, be looked upon as genuine. These two things, war and foreign intercourse, naturally excite great disgust and distrust in the national mind. If the sovereign, the parent of the people, in the commencement of establishing the constitution, makes these things which excite the hatred and disgust of the nation his first object, the national mind becomes averted from him, and patriotic men find themselves deeply disappointed. Such a course of action is, in my humble opinion, widely at variance with the imperial announcement that we were to be rescued from misery, and is nothing more or less than exchanging one form of wrong and violence for another.

Now, the forces of a sovereign are only put in motion when no other course of action lies open, and are not to be employed for the mere purpose of displaying military superiority. For some time now, the Tokugawa family, and the other clans which have incurred the imperial displeasure, have been constantly presenting petitions, in which they have declared their desire to submit and make atonement for their offenses, but nothing has yet been heard of any announcement of pardon and clemency.

The movement of troops eastward, culminating in his Majesty's appearance in the field, has not been caused by any absolute necessity for employing the forces of the sovereign. It has been an overbearing expedition for the sole purpose of triumphing in battle. If this universal movement of troops is to continue, sooner or later the funds will become deficient, provisions will become scarce, and the nation will suffer great misery. Now, this is what military writers carefully warn us against, and if their warning is not heeded the national strength will decay, and the final consummation of this decay will be that we shall fall into the snares of the outer barbarians, so that the position is one of great peril.

The cause of the Tokugawa family's restoration of the supreme authority into the hands of the imperial court was, that, since the American barbarians came into our ports, many thousands of patriotic Samurai, throwing away their lives and despising death, have advocated homage to the sovereign and the expulsion of the barbarians. It might be wished that the imperial court, on taking possession of the supreme power, would endeavor, however slightly, to gratify the departed spirits of the dead. Allowing that the expulsion of the barbarians is no easy matter, still their admission to the court shows a great want of proper feeling towards these faithful and zealous men, who have suffered unmerited punishment and lost their lives in the cause. If the imperial court acts in this way, there will soon be an end of patriotic and loyal Samurai. Shameless and insincere men only will increase; the national spirit will gradually become infected with foreign notions; we shall have tight-sleeved clothing and short-cropped hair, and, I speak with the greatest reverence, our true Japanese costume will be abolished; the Yamato spirit will daily decrease, until the imperial authority becomes powerless. Thus will the grand policy of the preceding reign, consisting in the enrichment of the people, the strengthening of the national defenses, homage to hereditary authority, loyalty to the court, the reform of meanness, and the practice of highmindedness, entirely disappear. This prospect causes the greatest sorrow and lamentation.

Now that the sovereign is concerned in the exercise of the functions of government, it is impossible for him not to be responsible for mistakes in policy and national misery. I pray that he will for the future exert himself strenuously, and, taking example by the last reign, establish an endurable basis of government; that, insisting on an undeviating return to the principles of monarchical government, his Majesty will display thorough justice and impartiality; that, by the exercise of that glory which has descended in one line from Jimmu, the Emperor 2,700 years ago, he will assert his power over foreign nations.

Your servant's low rank and wild language make him worthy of ten thousand deaths.

With respect and veneration: The most pressing duties at present, without referring to many other matters of the highest importance, are the enactment of a general amnesty, by which the hearts of the people shall be reconciled to each other; the relief of the clans from the great burdens imposed on them; economy and the collection of treasure; and the completion of the national defenses. And I would wish that your Majesty would do all in your power to serve these objects, so that when war or tumults arise there may be no shortcomings; and if, after this is done, your Majesty proceeds

to deal with the barbarians, the question of peace or war will be in our own hands, and we shall be able to put down the haughty pride of these people.

MARCH, 1868.

(Signed) ——————— ———————.

This document came to us inclosed in a letter from Kioto. Some say that it is a memorial written by one of the household of Chion-in-no-Miya, named Kinnira Oye; but we do not know how far this statement is reliable.

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[Translation from No. 8 of the Yedo News.]

*Memorial of a certain Daimio.*

Your insignificant servant, ——— ———, takes the liberty of expressing his foolish opinion to your Majesty with the highest respect and veneration.

In the month of January last, Tokugawa Keiki dared to fire against the imperial palace, by which act his treason became clear and manifest.

The imperial forces were sent against him and his chastisement decreed. In a few days, in a short time, the rebel forces were subjugated, and Keiki, abandoning the castle of Osaka, fled to the east. This may be ascribed in some measure to the bravery of the government forces, but I believe it to have been caused by the irresistible moral force of the throne; subsequently the people of Kioto and Osaka, of the five home provinces and the seven circuits (whole of Japan) acknowledged the imperial favor and bounty.

Your Majesty's beneficence and dignity were established, a result which proceeded from your Majesty's infinite wisdom and goodness, and from the successful restoration of the imperial glory.

A royal army was sent to chastise Keiki, generals despatched by the different great roads, and the important charge of commanding the whole of the forces was intrusted to a prince of the blood. The naval and military forces advanced to the attack from all sides, but the royal army met with no opposition, and in less than a month the clans of the north and east had all acknowledged the imperial authority.

Keiki himself, deeply regretting the acts by which he had incurred the guilt of a traitor, behaved with submission. He fulfilled the duty of a servant towards his lord in submitting to the royal sentence, evacuating his chief castle, surrendered his weapons and vessels of war; finally retiring from Yedo on the 3d of May to Mito to live there in seclusion. Probably this was because he thought himself unable to cope with the royal army. But the low vassals of Kuanto were ignorant of what is consonant with just principles, and alleging the benefits they and their ancestors had received since the time of Iyeyasu down, professed a fidelity and honesty which were not real, and it was apparently possible that they might prefer bearing the stigma of traitors in all future ages and act like the dogs of Kee barking at Yasu. But Keiki by his own single resolution kept them quiet; the most material proof of his submissiveness being continuously afforded, and the military prestige of the royal army being thereby fully maintained.

I think, therefore, that your Majesty should now accept his penitence and decree most liberal terms, and that your Majesty should issue orders to the commander-in-chief of the army of execution to withdraw his forces. Then would experience and dignity better be displayed. The great fundamental principle of the restoration of monarchical government would be re-established and the empire be free from trouble and pollution. Since April the royal army has advanced upon Yedo by the three roads of the north and east and is now encamped there. I hardly think it a good measure to advance thence far into Oshiu and Dewa through a mountainous country, where they would be ignorant of the topography, and have to undertake a lengthened occupation. I have heard that tacticians highly disapprove of sending a single force into an enemy's country and of keeping soldiers in the field until their strength is exhausted. Should the retainers of Tokugawa erroneously think that, as your Majesty, in spite of Keiki's submissiveness and his endeavor to keep them quiet, does not decree any liberal terms, your Majesty intends to destroy utterly the family and name of Tokugawa, it may follow that they will become desperate and resolve to fight—like the mouse which bites the cat when hard pressed by her—and oppose the royal forces in arms. It may be your Majesty's intention to put down these rebels, one by one, with the sharp weapons of the royal forces, and to rout out the whole nest in a hundred victorious engagements; but would it not be contrary to your Majesty's holy desire of cherishing the countless myriads of the whole land, to destroy the lives of thousands and tens of thousands in the struggle, and to inflict the evils of fire and sword on the innocent populace. But the issue of a fight cannot be known beforehand, and I fear that if the royal forces

were to suffer a defeat through a loss of opportunity or a bad position, not only would your Majesty's previous victories become tarnished, but the great scheme of a return to monarchical form of government might be entirely subverted.

Although this is the state of the case, if your Majesty would adopt the advice offered privately by your insignificant vassal already, by giving Keiki a territory and appointing him chief among the Daimios of the empire, there can be no doubt that Keiki's vassals would appreciate the greatness of your Majesty's beneficence and do their best to assist your Majesty in your duties. The services performed to the court during the last two hundred and fifty years since Iyeyasu's times would not be forgotten, and the whole of Kuanto, Oshiu, and Dewa, by a single act would be brought into tranquillity. At the present moment some of the stiff-necked people of Aidzu in Oshiu, and Shonai in Dewa, are ignorant of the greatness of your Majesty's policy, and refusing to submit to royal authority are preparing for war, which state of things, I understand, gives your Majesty a considerable addition of anxiety. It is certain that as soon as your Majesty's method of dealing with Keiki is settled, these stiff-necked people will cast away their arms and submit to the imperial authority.

As, therefore, the success and prosperity of the throne depend entirely on the action now taken, if your Majesty will only adopt the advice of your insignificant vassal, he will joyfully kneel on the bare ground and undergo the punishment of the axe. Rashly incurring the penalty of death, he makes this representation.

With the profoundest respect and veneration.

MAY, 1868.

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### *Mr. Van Valkenburgh to Mr. Seward.*

No. 61.] LEGATION OF THE UNITED STATES,
*Yokohama, June* 26, 1868.

SIR: The most important intelligence recently received, though not officially of course, is a project of the coalition of northern Daimios to proclaim the Mia Sama of Yedo the Mikado's representative—uncle and heir presumptive—as his successor, on the ground of the imbecility of the present incumbent. It is probable, however, that the chiefs of the Tycoon or Tokugawa clan are not yet prepared for so vigorous a measure.

The Tycoon, or Tokugawa, remains at his ancestral castle of Mito, holding himself apparently aloof from the political and military agitations, though no doubt secretly but actively participating in the favorite Japanese excitement of making and defeating of combinations, having in this case for object the ultimate restoration of his dynasty to power.

His submission to the Mikado would appear to be sincere. Yet among the best informed of his own officers the opinions in regard to him are singularly divided. While many suspect that a deep game is being played, others do not hesitate to express their doubts of his personal courage. With the exception of a few of his confidential retainers he remains invisible to all.

There is no doubt now, as it has been admitted, however reluctantly, by the Mikado's representatives, that the great Daimio of Sendai has joined the northern confederacy, and that the thirteen Daimios of the north are now in perfect union, to the extent of even declaring war against the Mikado, whenever they shall deem it necessary to adopt such a course.

It is cheerful to reflect that at least in one portion of Japan such unanimity has been attained, and notwithstanding the efforts of the Mikado's agents to prevent it and to incite those Damios to fight one another.

From all other parts of Japan it is reported that order reigns supreme. There is no doubt that each Daimio preserves it in his province by a display of military force, not from apprehension of their own people,

but from their armed neighbors. There are feuds, some even of two or three hundred years' standing, among several of those sovereign noblemen, and a desire of acting on the defensive so as to enlist the presumption of justice on their side is the only check to their aspirations.

It is next to impossible to find out with positive certainty what is actually going on in this country. Movements of troops, skirmishes, &c., are daily reported; an outbreak at Yedo is also daily expected by the people; the large merchants in this part of Japan have withdrawn, and as business is not reviving at Osaka, it is quite evident that the people have no confidence in the Mikado's government, or in its stability.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 65.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 3, 1868.

SIR: Yesterday an officer of Higashi Kuze Jijin called with a message from that functionary to the effect that a dispatch had been received by him from the Mikado's court in regard to the Stonewall, and soliciting her delivery. It would give the Mikado great pleasure, I was informed, to proceed from Kioto to Osaka, to visit the Stonewall in the Osaka Roads and receive her in person.

In reply I repeated the statement frequently made already, that the Stonewall could not be delivered until peace shall have been restored in Japan, or until I shall have received specific instructions from you to do so.

I readily granted the request to make this statement in writing for transmission to the Mikado's court or government, and I now have the honor to transmit herewith No. 1, copy of my letter to the ministers for foreign affairs on that subject.

In anticipation probably of my inability to resist the magnificent offer of a visit from that sacred personage to receive the Stonewall in person, a rumor got abroad in Yedo that satisfactory arrangements for the delivery of that ship were being completed, and late in the evening of that day Enomoto Idsumi No Kami, the commander-in-chief of the Tycoon's or Tokugawa navy, came down in one of his steamers from Yedo and called on Mr. Portman, to inquire into the truth of that rumor, which he said had reached him from a source so as to excite his most serious apprehensions.

After receiving an assurance precisely similar to the one I had made to the minister for foreign affairs on that day, with which he declared himself perfectly satisfied, Idsumi No Kami stated that he regretted to be unable to call officially on me.

"He could not expect to be considered at present an officer of the Japanese government, neither could he admit that those who acted in the name of the Mikado fairly represented the government of this country. Most of those persons, it was well known, had been convicted of crime in former years and escaped punishment; having nothing to lose but everything to gain from radical changes, the disastrous consequences of which, if unsuccessful, would fall on more responsible heads. Those political adventurers, under high-sounding titles not legitimately conferred upon them, now acted as

the willing instruments of ambitious Daimios and others, with no other object, as would soon become more evident, than plunder and self-aggrandizement.

"It would also soon be shown that the government of the Tycoon, which gave peace to Japan during an uninterrupted period of nearly three hundred years, could not be effaced in a day.

"The government of the Mikado, so called, as at present constituted, is an impossibility. Its principal supporters were already abandoning the scheme. Choshin had withdrawn, and also Hossokawa. Tosa was about following that example. The Daimios who remained with this so-called Mikado's government, with the exception of Satsuma, had but little influence and power; and several of those were growing less zealous in their cause. The Daimios of the north, on the other hand, were thoroughly united, ready to raise their flags and to march for the re-establishment of the former government and the maintenance of their rights.

"Between this united north and the other provinces of Japan now stands the Tycoon or Tokugawa, from ancient times by far the wealthiest and foremost among the clans.

"Our policy," Idsumi No Kami said, "is not only not to take up arms at present, but also to prevent the north from entering into operations other than defensive. War once commenced, no one can foresee how long it may last and how it may end. The navy is faithful and obedient; the army is stationed in the two provinces of Kōodzuke and Simodzuke, obedient to its discipline, and ready for any emergency at the first signal.

"The reports from the army are entirely satisfactory. Our principal anxiety is caused by a body of some two thousand five hundred of our Shogitai, (volunteers,) who guard the Mia Sama in his temple of Wuyeno, in Yedo, and whom it is difficult to restrain.

"The people in Yedo, and wherever the troops of the southerners are stationed, are greatly oppressed; but it is the true interest of Japan, however we may deplore this state of things, to wait a little longer, in the hope that moderation may at last prevail in the Mikado's councils, and the project of confiscating the property and the rights of thousands of our people be abandoned.

"To prevent collision between the volunteers and the southern troops our efforts are now chiefly directed. If fighting becomes general in Yedo, hostilities may be expected to break out in several parts of Japan, the north always excepted. Between Hossokawa and Satsuma it may come to blows at any moment, and the ill feeling between the great Daimios of Kaga and Etshiren is still more intense. There are other Daimios besides, of smaller caliber, who would seize the first opportunity, if presented, of attacking a neighbor, and absolute anarchy and frightful bloodshed might be the result of any hasty or ill-considered action on our part. The officers of the Mikado's court, who attempted to exercise authority in Oshu and Dewa, (the north,) have promptly, though in a most respectful manner, been taken in charge, and when the proper time shall have arrived, the Tokugawa regular army and navy, if it be unavoidable, will receive orders to march, and will know, I trust, to do their duty.

"It may easily be imagined, therefore," Idsumi No Kami continued, "of how much importance it is to all Japanese, in fact, that the Stonewall should not now be delivered. The present unsatisfactory state of things may possibly continue some three or four months longer. If, unfortunately for the Tycoon's cause, orders should be received to deliver this ship to this so-called Mikado's government, it would be my duty, as representative of the Tycoon, or Tokugawa, to protest against such transfer; and I would do so respectfully, but at the same time most energetically.

"The Stonewall was bought with my master's money, and duly transferred to his authorized agents in American waters. If now my master, who was then Tycoon, and the recognized sovereign of Japan, should simply become a Daimio, or chief of the Tokugawa clan, I claim, that even in such case this ship can only be given to him, and to no one else. All the great Daimios possess men-of-war, or armed steamers. Choshin and Satsuma, in addition to those already possessed, have each ordered an iron-plated steamer in England. The Prince of Hizen, now governor of Yokohama, has recently ordered a war steamer in Holland. Unless, therefore, those Daimios all transfer their steamers to the Mikado, it could not reasonably be expected that the Tycoon, or Tokugawa, should present or transfer his ships, nor could the Mikado reasonably claim such transfer as being equivalent to confiscation."

With his thanks for the assurance received, Idsumi No Kami concluded his statement by expressing his entire confidence "that the government of the United States, through its representative, would under no circumstances become a party to confiscation of Tycoon's, or Tokugawa, property."

The foregoing is a clear expression of the views of the Tycoon, or Tokugawa, on the Stonewall question. Enomoto Idsumi No Kami, and two other officers of equal rank, are now the representatives of the

Tokugawa clan, and recognized as such by the agents of the Mikado's government. This statement, therefore, is fully entitled to consideration.

Educated in Europe, where he spent five years, he consistently advocated progress, and a liberal foreign intercourse; and to his present responsible position he was promoted by the Tycoon, or Tokugawa, (whose confidence he entirely possesses,) when the troubles increased, and his elderly councillors admitted their inability successfully to cope with them.

From all I can learn, I am inclined to put faith in Idsumi No Kami's statement of the present political situation. I believe it to be quite true and entirely free from exaggeration. Not less interesting is his *exposé* of the Tycoon's, or Tokugawa, policy—passive resistance, with force in the background.

To this policy his chief retainers have adhered from the beginning of this unfortunate civil war, and to this policy I feel confident they will adhere to the end, unless it should become unavoidable to put forth the strength they claim to possess; and this, I can only hope, as much almost for the sake of this people as for our interests, may yet be avoided.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 113.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, July* 2, 1868.

At a conference held with your excellencies some time ago, you expressed a desire to have the ironclad ram Stonewall delivered to his Majesty the Mikado at as early a period as possible.

I then explained to you my action in detaining her, as well as the steps I had taken to put my government in possession of the situation of political affairs in Japan, and informed you that I must await instructions from the President of the United States, which I hoped to receive by this date, although they might not reach me for a month or more.

I have now the honor to inform your excellencies that my action in regard to the Stonewall has so far been approved by the President, but I have not yet received such instructions as will warrant my delivering her to any person at the present time.

When such instructions shall have been received, I will further communicate with your excellencies upon the subject.

I have the honor to be, respectfully, your most obedient servant,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

Their Excellencies HIZEN JIJIN and HIGASHI KUZE CHINJIO,
*Ministers for Foreign Affairs.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 66.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 6, 1868.

SIR: With my dispatch No. 64, of the 16th November, 1867, I had the honor to transmit copy of arrangements unanimously adopted by the foreign representatives and the Japanese government for the municipal government of Yokohama.

A subordinate officer of the British consulate at this port was tempo-

rarily and for a period of six months placed in charge of the office of municipal director.

This appointment proving unacceptable to several of the more prominent residents of Yokohama, it was determined by the representatives, when the term of service of the temporary director was about expiring, to leave the selection of his successor to the foreign community.

Candidates for the office soon presented themselves, and all the foreigners duly registered at their respective consulates were entitled to vote. The election took place and resulted in placing in the office of municipal director of Yokohama Mr. E. S. Benson, an American citizen, at a fixed salary of $250 per month, with an additional amount of $100 per month for house rent. The office is for an indefinite period, under appointment of the local government, to be terminated by a three months' notice from either party.

Mr. Benson's appointment was confirmed by the consul; he was then recommended by the foreign representatives, and he entered upon his duties on the 1st instant.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 67.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 8, 1868.

SIR: I have the honor to transmit herewith, No. 1, copy of a letter addressed by the consuls of the treaty powers at Nagasaki to the governor general of Kiu Siu in relation to the treatment of native Christians, and No. 2, copy of the reply of his secretaries or councillors.

Though more than once informally requested to furnish me with information on this important subject, I extremely regret to say that our consul, Mr. Mangum, has not seen fit to do so, and for the copy of this correspondence I am indebted to the kindness of her Britannic Majesty's minister.

The actions of the consuls at that port, several of whom are engaged in trade, cannot be expected to exercise much influence with the local government, and in the present disturbed state of the country the Mikado's court or government is quite unable to attempt to put down Christianity by force.

I transmit inclosure No. 3, translation of a document giving the views of a Japanese scholar on Christianity. This document was procured by the English authorities at Nagasaki, and has been circulated among the Daimios of Kiu Siu and others.

I also transmit inclosure No. 4, translation of a decree of the Mikado's court, showing the course adopted with the view of finally disposing of Christianity and of checking proselytizing, so extremely objectionable to the educated classes in Japan. The four thousand and ten converts, according to a census taken, are to be distributed among several Daimios and held to labor.

There appears to be no doubt that, under pretence of professing Christianity, those people who belong to the humblest and most ignorant

classes neglected their avocations, held so-called religious meetings at night, when often gross licentiousness prevailed; and hard labor in isolated places is the means adopted to cure them from immoral practices.

Whether the Daimios selected to take charge of these unfortunate people have been consulted in the matter I am unable to say. Neither has it been possible to discover whether they will accept the charge of these people as decreed, or object to the measure.

I am watching the progress of Christianity with deep solicitude, and hope that you will be pleased to approve of my action, taken in concert with my colleagues, who join me in believing that the Mikado's decree will remain inoperative, and that no measures calling for the interference of the representatives of the Christian powers will be carried out by the Mikado's government.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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NAGASAKI, *May* 12, 1868.

To his Excellency the GOVERNOR GENERAL OF KIN SIN:

From different sources we have been informed that the Japanese government intends a general persecution of those Japanese subjects who have embraced Christianity.

We have not the least intention to interfere with the rights which the Japanese government have to exercise over these subjects, but think it our duty, in the name of humanity and in the most friendly spirit towards the Japanese government, to make earnest remonstrance against a step which certainly would prevent all civilized nations to regard Japan as heretofore, namely, a civilized nation.

The article VIII of the treaty, stating that—

"Neither Japanese or foreigner should do anything that may be calculated to excite religious animosity," and that

"The Japanese government had abolished the practice of trampling on religious emblems," shows that the question was taken in serious consideration when the treaty was made.

We hope that the new government will not retrograde by doing what has been done centuries ago, at a time when the highest authorities in Japan declare their adhesion to progress.

Again we beg to state that this letter is written merely in a feeling of friendship for the Japanese government and in the name of humanity.

Being most anxious to have these reports officially contradicted and trusting they may prove to be untrue, we will feel obliged by yonr favoring us with a reply at your earliest convenience.

We have, &c.,

[Signed] by the consuls of all the treaty powers.

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NAGASAKI, *May* 31, 1868.

GENTLEMEN: We beg to acknowledge receipt of your dispatch of the 12th instant, with reference to reports which have reached you of severe punishments being about to be inflicted on those Jpanese subjects who have embraced the Christian faith.

We respect the feelings which dictated this letter, and we pity those perverse minded Japanese of the lower class who, in the face of an old established Japanese law, have committed the crime of apostatizing to a strange religion, the practice of which is strictly prohibited; but we shall have no alternative but to punish them according to Japanese law if our repeated remonstrances do not cause them ultimately to repent and retract their errors.

You further state that the VIIIth article of the treaty provides that there shall be no religious animosity between Japanese and foreigners, and that the practice of trampling on religious emblems had been abolished by the Japanese government. It is true that there should be no disputes with regard to the respective religions professed by each country—and both foreigners and Japanese are at liberty to follow their own,

but the abolition of the practice of trampling on religious emblems had no reference to your country's religion.

You express a hope that the new government will not revert to obsolete practices at a time when the highest authorities in Japan have declared their adhesion to progress, and this gives us great pleasure. It shall be the earnest endeavor of the new government to avoid any retrograde step; but if we wish to maintain the integrity of our laws, it is impossible for us to be remiss in the care of persons who have disregarded the strict prohibitions which they contain, and the delay hitherto accorded has been from motives of humanity only.

In the last paragraph of your dispatch you ask whether the reports you have heard are true or otherwise. We hope you will clearly understand our answer from what is stated above.

We have, &c.,

MACHIDA NAIMBU.
SASAKI GAUNSTERO.
NOMENA SOSHICHI.

By order of the Governor General.

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[Translation.]

*Tales of Nagasaki.—The story of the evil doctrine.*

THE ROMAN CATHOLIC RELIGION.

At a village named Oieva, near Nagasaki, the French built a church, and five or six priests took up their residence there. They gave wages of a hundred to two hundred rios annually to about twenty Japanese readers, and sent them out in the disguise of traders or traveling students to Hirado, Shimabara in Hisen, to Fukabori and to Amakusa. To the poor they gave money, and to the superstitious they exhibited prodigies in order to proselytize them, or worked upon their feelings by conventicles. (A conventicle is a meeting of both sexes at night in a secret chamber for pleasure.) In a short time, therefore, one or two hundred fellows sprang up who disregarded the most stringent injunctions of the lords of the district, and neglected the social relations and the five virtues—a most fearful state of things, indeed! A certain spy, as he was concealed under the verandah of a house in Urakami heard a priest of the evil religion preaching who said: "Persons who enter our sect and believe its doctrines will be born in heaven and enjoy eternal felicity; while believers in Shintoism, Confucianism, and Buddhism will all go to hell and suffer torment. Should only a single person of a family enter our sect, the rest will all be born in heaven by his merit." Then he showed them in a "Glory" palaces and mansions, and people enjoying themselves with beautiful women. Consequently they became desirous of dying at once, and being born into heaven, and do not care for the severest punishments. I will narrate further stories of prodigies performed.

THE JESUS OF PROTESTANT DOCTRINE.

In the same way the Americans and English have built Jesus halls, (churches,) and five or six priests coming, try to lead astray the talented and clever men of Japan. These priests of the Jesus doctrine live mostly in private houses, and under pretence of teaching astronomy, geography, and the use of fire-arms, and medicine, desire in actual fact to spread about the abominable poison of Jesus. Compared with the Roman Catholic religion, this is a very cunning doctrine indeed. Although they try to make out that there is nothing abominable in it, they are really foxes of the same hole, and it is really more injurious than the Roman Catholic doctrine. The priests say "the Jesus doctrine which I recommend to you does not practice magic; it advocates the observance of the social relations and the five virtues." But in the matter of abolishing Shinto and Buddhism and of treating prince and father with contempt, it does not differ from the Roman Catholics, for which reason it is very hurtful to the state.

A Chinaman named Chang Chi-tsuo, in a letter to a friend of mine, says: "I find from my acquaintance with the retainers of Japanese Daimios residing in Nagasaki, that they all are studying western learning by command of their princes. The fact is the western barbarians practice murder instead of agriculture. Astronomy, geography, warlike weapons, and other toys of theirs are only fit to amuse the eye and ear. But there is not one of their books which does not praise the spirit of Jesus or of the Lord of Heaven, (God,) and persons who do not study those books with a profound appreciation of fundamental truth will find themselves respecting the doctrine before they know where they are. I sincerely hope that the doctrines of Jesus and of the Lord of Heaven may not spread all over Japan in two or three years." Those words are per-

fectly true. Should it turn out so, Japanese will become enemies of their own country for the sake of foreigners. I pray most earnestly that benevolent men and superior men will not be led astray by the evil plots of these people, but will assist our countrymen with just laws, and keep the state as firm as Taisan.

### ELEMENTS OF THE EVIL DOCTRINE.

The Jesus doctrine and the doctrine of the Lord of Heaven are the same in origin, and merely branches of one. Three hundred and fifty-two years ago a division of the Roman Catholic religion was founded, which, professing to observe the true meaning of Jesus, called itself the Jesus doctrine. They say that the Roman Catholic religion consecrates wooden images and practices all sorts of prodigies. The Jesus doctrine does not even consecrate images of Jesus; it merely instructs, and does not practice prodigies. They derive their doctrines from the Old Testament in thirty-nine books and the New Testament in twenty-seven books. The commencement of the Old Testament says that five thousand eight hundred and sixty-eight years ago the Lord of Heaven made the heavens and earth, the sun, moon, and stars, herbs, trees, birds, and beasts, in the space of five days, and on the sixth made a man and a woman, who are the original ancestors of all mankind. Wherefore the Lord of Heaven is also called the Creator. He is also called the Great Prince, and the Great Father; (natural) princes and fathers being distinguished as little princes and little fathers. In that case what is said in the classic of Poetry, that "the whole of what is under the heavens there is no place which is not royal territory; in the whole earth there are none who are not royal subjects," comes to nought. And when they say "that the Lord of Heaven made human bodies which were of earth, and that the Lord of Heaven put life into them," what is said in the classic of Filial Piety, "that we have received our bodies, hair, and skin from our fathers and mothers," comes to nought.

They look upon prince, father and mother, as nurses, who merely nourish us, and say that if we worship our ancestors we shall be hated by the Lord of Heaven. This is treating prince and father with contempt, and entirely destroying the natural relations of prince and vassal, father and child, which is a great evil to the state.

The Old Testament contains the ten commandments of the Lord of Heaven. The first of those says, "There is no other Lord but me." Consequently the evil confederation of Urakami-mura near Nagasaki threw the tablets of Tenshôkô Daijin, (the sun-goddess,) and of Kasuga Hachiman and the rest, into the water, into the fire, and into the privies. The sixth says, "Thou shalt not kill;" but this means, "Thou shalt not kill people of our religion;" but they murder the most virtuous persons and superior men, if they do not belong to the religion. The seventh says, "Thou shalt commit no abominable lechery;" but there are many cases in the Old Testament of persons who are said to be beloved by the Lord of Heaven, becoming united in the bonds of parent and child, brethren, husband, and wife; and besides, at Urakami, near Nagasaki, lately, under the name of conventicles, men and women meet secretly in the depth of the night, which is abominable lechery. The eighth says, "Thou shall not steal;" but they seize on other countries, and make them subject to their own. Is this not flagrant robbery?

In the New Testament is written the history of Jesus from his birth to his death by crucifixion. This person called Jesus was originally very poor. In his fifteenth year he was banished, upon which he traveled through many countries learning magic arts, curing the sick, and stopping floods, and other magic. He deceived the ignorant lower classes, making them follow himself until his evil design of murdering the sovereign of the country and seizing the country and people for himself, being discovered, he was put to death by crucifixion. He was a most traitorous animal. It is, however, written, that he was crucified to atone for the sins of all men; that after death he came out of his grave and preached for the space of forty days to his disciples, and ascended to heaven alive. This is the invention of those fellows, and entirely unfounded.

Considering that the foundation lay in such violent wickedness, it is impossible that any of his believers can be either filial or loyal. They say that the most unfilial and disloyal can go to the very top place in Heaven, if they only love the Lord of Heaven. The disasters of Simabara and Amakusa may be looked upon as warnings to avoid. The love of novelty is unfortunately such, that if divine tickets and images of Buddha are caused to fall from Heaven, as they have been since last autumn, there are plenty of common people, who, under the pretense of worshipping the gods, dance and sing drunken songs, and forget the principles of the social relations. Such would be the misfortune of the state were people to be sunk in this evil doctrine.

What I pray for is that patriotic Samurai in this country shall learn how these people offend against the principles of fidelity and filial piety; what ambitious designs they have against the state; and fortifying men's minds with good principles, block up every chink by which the evil doctrine might creep in and perform one act of good service to the sovereign.

I do not aim here at describing the thing in detail, but only to speak a bit of my mind and narrate a story for the benefit of the ignorant and young.

### HISTORY OF THE EVIL DOCTRINE AT NAGASAKI.

Since the opening of the port of Nagasaki, the French among the western barbarians have mainly preached the Roman Catholic religion, and the English and Americans the Protestant religion. In addition to these there are the Greek religion, the Mahometan religion, &c., all of which resemble the former, and are as injurious to the state as they are.

In Oura, at Nagasaki, Roman Catholic and Protestant churches have been built, and the Japanese are secretly induced to join these religions. The Roman Catholic religion preselytizes from the middle down to the lowest classes of the inhabitants; the Protestant religion chiefly proselytizes those of a higher position than the middle class.

The proselytes of the Roman Catholics are as follows: In Urakami, near Nagasaki, above two thousand people; in the territory of Omura, above one hundred persons; in the territory of Fukabori, in Hizen, above fifteen hundred. Iakahama, Shimabara in Hizen, Amakusa in Hiogo, Hirado in Hizen: in these last four places proselytizing is going on, and it is not known exactly how many thousands there are.

On the evening of the twenty-third day of the sixth month of last year, (July, 1867,) the governor of Nagasaki sent to Urakami, seized the evil ones, and threw them into prison. The images in the church, which had been built at Urakami, were seized at the same time and intrusted to the charge of the mayor of the village. The officers who were sent to apprehend them brought them all, seventy-odd in number, to the governor's official residence. Six or seven men were left to guard the mayor's house; but the remainder of the evil band, to the number of several hundred, attacked the place, and repossessed themselves of the images, &c. They also seized two officials and two of their subordinates as hostages, declaring, with violent language, that they would not give them up unless the prisoners were set at liberty. In consequence these hundreds of other offenders were left alone and not apprehended.

The people of the next village, called Nishi, were all of a resolute disposition, and always observed the principles of loyalty and filial piety. Although built in a continuous line with the village of Urakami, it did not contain a single one of those evil fellows. When the evil fellows of Urakama were apprehended, the officials were very much afraid and did not like to force an entrance; but the people of Nishi, thinking that now was the time to do their duty, forced their way among the enemy, and did good service.

In Urakami there is a place subject to Omura. As that place contained some of the evil band, the authorities of Omura arrested more than a hundred in the commencement of the seventh month, and committed them to prison.

The evil ones who had been apprehended by the governor of Nagasaki and cast into prison were daily summoned by him and remonstrated with on their evil conduct, but they remained obstinate and gave no signs of repentance. On the contrary, they actually begged that they might be openly permitted to join the Roman Catholic sect.

As the governor and collectors could do nothing with them, on the fourteenth day of the eighth month, the priests of nine temples—seven being of the Sinshin sect, and two of the Tenshin sect—were summoned to the governor's official residence, and asked if they could suggest a plan for bringing back the evil fellows of Urakami.

The priests replied that they would give in their answer after mature consideration, and retired. Next day they sent in their reply, which was to the effect that they would do their best in exhorting those people to change their hearts.

On the 19th day the collector and judges set out to Urakami with the priests of the nine temples, and tried to exhort those people; but they were obstinate and refused to be convinced in the slightest degree. The fact being that as they had not been severely dealt with up to that time, the evil bands only increased in their obstinacy.

In the middle of the ninth month, the people imprisoned by the governor of Nagasaki falsely pretended to have repented and were released from prison, but they only collected together again and increased in numbers from day to day.

As the affair of those who had been released from prison ended only in their village being made responsible for them, the evil fellows thought they had found a capital opportunity; they took a quantity of money out of their church, with which they went secretly to all parts, giving money to the poor, performing magic and wonders, proselytizing the people. Consequently, in a short space of time, large additions were made to their numbers—ten in one place and a hundred in another.

The fourth commandment of the evil religion ordains the observance of a day of rest. Japanese began gradually to keep this day, by which their having entered the sect became apparent.

As the Roman Catholic religion had spread so widely, it behooved those of the Protestant doctrine also to take their measures to increase the circle of their sect also. A person called Maria, wife of one Verbeek, a priest of Jesus, left her child at the breast and went to China in a steamer. She went as far as Shanghai and Hong Kong for the purpose of getting the priests residing there to come with her to Japan.

This is a summary of the doings of the evil ones at Nagasaki. I do not know what may be the state of things at Yokohama and Hakodadi. As there are several priests residing at those places also, it is pretty certain that they will entice Japanese gradually.

Since Hiogo became an open port last winter, no doubt the priests will gradually make their entrance there, and I fear they will pour their abominable poison in a short time into Osaka and Kioto also. But as they have not commenced working at those places yet, I hope that a plan for protecting us against them will be matured while there is yet time.

As the evil ones of Nagasaki who are fully convinced are not at all likely to be converted again, I think they ought to be visited with the severest punishment. But the persons who have been merely drawn in by others will probably repent if they are exhorted in the proper manner.

In the above I have given a brief account of the rise and spread of the evil doctrine.

JUNE 8, 1868.

The Christian religion has hitherto been strictly prohibited by the late Bakufu, (Tycoon's government;) but an old custom cannot suddenly be abolished.

Recently the people of the village Urakami, near Nagasaki, began secretly to profess this religion, and the numbers of those worshipers gradually increased.

Now it has been magnanimously determined (by the Mikado) in council that those persons shall be placed in the charge of Daimios in the manner as follows:

The Christian religion being strictly prohibited by the law of the empire, the violation of this law is considered a serious matter; therefore, after the people shall have been placed in charge of the Daimios, care should be taken to induce them to renounce their evil ways, and if there be any who refuse to repent, severe punishment must be inflicted.

These people shall be rigidly excluded from social intercourse until it shall have been proved that their hearts are purified.

They shall be employed as laborers on ground requiring improvement, such as mines, coal mines, &c.

They shall live in forests. For a period of three years one ration for each person per day shall be allowed to the Daimios.

These people will be sent from Nagasaki, and the Daimios shall send their agents to receive them at the landing places named as soon as preparations shall have been made.

Orders accordingly have been issued as follows:

To Maeda Shioshio, for 250 persons; to Yanagisawa Kainokami, for 100 persons; to Todo Idsuminokami, for 150 persons; to Tokugawa Motochyo, (Owari,) for 250 persons; to Iye Kamonnokami, for 130 persons; to Todo Wünemenosho, for 80 persons; to Sakai Wakasanokami, for 80 persons; to Matsdaira Etshisennokami, for 150 persons; to Awoyama Sakio Daibu, for 50 persons; to Hongo Hokinokami, for 50 persons; to Ku Tahünagong, for 250 persons; to Matsdaira Idsunokami, for 50 persons.

The foregoing numbers shall be sent to Osaka, and delivered at the Yashkis of the Daimios, as above stated.

To Ikeda Inabanokami, for 150 persons; to Matsdaira Dewanokami, for 150 persons; to Kami Okinokami, for 30 persons; to Ikeda Bizennokami, for 150 persons; to Assano Akinokami, for 150 persons; to be sent to Onomichi.

To Matsdaira Mikawanokami, for 80 persons; to Abe Tortoni no Kami, for 80 persons; at Tomots.

To Hatshisuka Owanokami, for 130 persons; to Matsudaira Sanukinokami, for 100 persons; at Manegame.

To Date Totominokami, for 80 persons; to Yamawutshi Tosanokami, for 130 persons; at Mitshama.

To Nakagawa Shurinodaibu, for 50 persons; to Naito Bingonokami, for 50 persons; at Tsurosaki.

To Mori Daisenno Daibu, for 150 persons, at Simonoseki.

To Ogasawara for 50 persons, at Kokura.

To Okudaira Daisenno Daibu for 80 persons, at Nakats.

To Kuroda Minonokami for 150 persons, at Hakata.

To Arima Nakatskasa Tayu, for 130 persons; to Tatshibana Hidanokami, for 80 persons; at Wakats.

To Shimadju Shunnodaibu, for 250 persons, at Kagodima.

To Hossokawa Etshünokami, for 150 persons.

*Mr. Van Valkenburgh to Mr. Seward.*

No. 68.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 13, 1868.

SIR: In my dispatch No. 57, of the 4th ultimo, I informed you of the extreme anxiety of the southern chiefs to remove the Mia Sama from Yedo, and obtain the control of this personage; and in my dispatch No. 61, of the 26th of that month, I reported the intention of the northern Daimios to proclaim him the Mikado. Should the present Mikado die without issue, this Mia Sama, I am informed, would be his legal successor. He is, therefore, the most important personage next to the present incumbent of that high office, and may become at any moment himself the Mikado of Japan, should he consent to such a measure, which the northern Daimios are still inclined to carry out. In such a case there might be two Mikados; and as the new one would probably obtain the suffrages of the majority of Daimios and of those who represent the most powerful interests, such scheme would probably possess all the elements of success.

The chiefs of the Tokugawa clan, I reported, were not yet prepared for so vigorous a measure, and the Mia Sama himself did not appear to favor it. Failing in their efforts to obtain control of him, the southern chiefs, apprehending the consummation of a project which would be equivalent to the defeat of their schemes, and probably also of their military forces at an early day, besides, resolved to act, and attempt to take charge of him by force. On the plea of destroying his defenders, the volunteers, through whose presence the southern occupation of Yedo was worse than nominal, they resolved to attack the temple of Wuyeno. It was in this Mikado's temple that the Tycoon did penance previous to his departure from Yedo; and as it was Mikado's property, and held sacred therefore, the attack on such a place was in itself a victory over the superstition prevailing among the majority of the soldiers fighting under the Mikado's flag.

I have now the honor to transmit herewith, No. 1, a translation of a document furnished me by the Japanese ministers for foreign affairs, containing general orders for the attack, and No. 2, from the same source, showing the disposition of the forces, and announcing the destruction of Wuyeno and the successful result of the attack. It appears to be beyond doubt, however, that the principal object of the attack was not attained, and that the Mia Sama had left his temple and proceeded to the north on the previous day, strongly escorted by volunteers.

On the 5th and 6th instant search was made all over Yedo in the hope of finding and capturing this great personage, but evidently in vain. All reports agree that he is safe and beyond the reach of the southerners.

From the other side reports have reached me that after the Mai Sama and all the valuable property had been removed, the volunteers, during the entire day, the 4th instant, fought well, killing numbers of their assailants, and thus securely covered the retreat of their ecclesiastical chief. It is suspected that they then themselves set fire to the temple, thus throwing the odium of this sacrilegious act on their southern assailants, and at the same time covering their own retreat. The southern troops, on marching in and taking possession on the next day, and not before, only found some fifty killed enemies and no wounded. Three wounded volunteers were subsequently discovered concealed in an adjacent street, beheaded on the spot, and the heads exhibited. It is further reported of the assailants that the soldiers of Higo fired a volley

into the ranks of Satsuma, wounding about thirty men—some say by mistake; others, aware of the bitter feud between those two clans, suspect that this was done on purpose. There was no general commanding officer on the spot; the men of each clan fought under their own officers, and quite independent of each other, the jealousy among the clans preventing a regular organization being arrived at.

It is impossible to give anything like a correct estimate of the forces engaged; the reports all differ materially in this respect, only agreeing in this, that to all appearances the southern troops now hold complete sway at Yedo, and that the people, all reports of suffering notwithstanding, are quite well treated by them.

I transmit inclosure No. 3, translation of a proclamation appointing Tokugawa Kamenoske, the son of Prince Tayasu, the chief of that family, Tokugawa Toshinobu, retiring with the title of former Tycoon. It is from him that this proclamation emanates.

This morning large bodies of troops marched through Kanagawa on their way to the Hakoné Pass, now held, it is reported, by the Tokugawa men. If this be true, reports of fighting from that quarter may soon reach me. I visited that pass last year, and in the hands of good troops, well supported and provisioned, it would be very strong indeed.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

*To the clans of Kadsusa, Shiniosa, Kodzuke, Shimodzuke, Sumga, Awa, Idzu, Sagami, and Musasi:*

For some time past contumacious members of the clan, refusing to submit to the gracious and merciful will of the imperial court, and disregarding their master Keiki's (late Tycoon) desire to submit, and in spite of their being in the (legal) position of persons in seclusion, have broken loose and collected in numbers at the temple of Wuyeno and in other places, assassinated the soldiers of the government, plundering the populace of their property, and committing acts of constantly increasing violence, in defiance of the government forces. Truly, they are enemies of their country, who deserve no mercy.

It has become necessary, therefore, to issue orders that force be used against them. You must therefore keep strict order within your territories, and put your forces in a state of complete preparation. If any of the rebels should make their escape you must slay them.

Any neglect of these orders will be visited with severe punishment. You will therefore consult with the clans in your vicinity, and exert your energies in doing your duty to the best of your power.

These orders are issued by the Miya, commanding in chief.

JULY 3, 1868.

*Copy of orders to the soldiers of all the clans.*

Those of Tokugawa clan who have broken loose have assembled in numbers at the temple of Wuyeno and other places, constantly assassinating the soldiers of the government army, plundering the innocent populace of their property, and committing acts of constantly increasing violence, in defiance of the government forces. Truly they are guilty enemies of their country and deserve no mercy.

The imperial court is unable to show further clemency, and orders have been issued to use force against them. You are therefore ordered to fight with gallantry and daring, and to exterminate those enemies of their country, so that the countless myriads of the people may be rescued from misery, and to tranquillize the imperial bosom by restoring peace and quietness at once.

JUNE.

*To Tokugawa Kamenosuké:*

It is the order of the Miya, commanding in chief, that you remove during this day the tablets of your ancestors and other valuable treasures which are at the temple of Wuyeno.

JULY 3, 1868.

*To Tokugawa Kamenosuké:*

For some time past contumacious members of the Tokugawa clan refusing to submit to the gracious and merciful will of the imperial court, disregarding their master Keiki's desire to submit, and in spite of their being in the (legal) position of persons in seclusion, have broken loose and collected in numbers at the temple of Wuyeno and in other places, assassinating the soldiers of the government, plundering the populace of their property, and committing acts of constantly increasing violence in defiance of the government forces. Truly, they are enemies of their country and deserve no mercy. It has been found necessary, therefore, to order that force shall be used against them.

The Miya, commanding in chief, has ordered this to be communicated to you for your information.

JULY, 1868.

*To the Koga clan, (Doi Oyeno Kami, Koga-in-Shimosha:)*

Same as above down to "force shall be used against them."

Consequently, a high military officer with some Hizen troops will be sent to you. You will consult with them in all matters. Keep strict order within your territory, and put your forces in a state of complete preparation.

If any of the rebels should make their escape you must slay them.

Any neglect of these orders will be visited with severe punishment.

You will therefore exert your energies in doing your duty to the best of your power.

By order of Miya, commanding in chief.

JULY, 1868.

*To Oshi, (Matsudaira Shimosa no Kami, in Musashi:)*

Same order as above, with the exception of Geishū troops for Hizen troops.

*To Kawagoye, (Matsudaira Suwo no Kami, Musashi:)*

Same order as above, with the exception of Chikuzen troops for Hizen troops.

*Copy of notice affixed to the notice-boards and published throughout the city.*

For some time past the bands who have broken loose have assembled at the temple of Wuyeno, frequently assassinating the soldiers of the government or plundering the people of their property in the name of the government forces, and committing acts of constantly increasing violence. They are rebels against the state. Henceforth they shall be killed wherever they are found. Any persons secretly assisting them or harboring them will be treated as rebels.

JULY, 1868.

Tokugawa Keiki having given proofs of his submissiveness, his Majesty, in consideration of the great services of his (Keiki's) ancestors, appointed a successor to his name and family, and intended to announce subsequently the castle and revenues to be allotted, with the desire that all, even to the lowest, might know his proper position in the commonwealth; but, unfortunately, contumacious members of the Tokugawa clan refusing to submit to the most benevolent will of his Majesty, and disregarding their master Keiki's desire to submit, and in spite of their being in the (legal) position of persons in seclusion, have broken loose and assembled in various places, in defiance of the government forces; they have plundered the property of the innocent populace, and there is no act of violence which they have not committed.

As these acts tend to plunge the population into the depths of misery, it has been found unavoidably necessary to use force against them. As the object of this determination is to remove evil, to render the empire as firm as a rock, and to relieve the countless millions from anxiety, unreasoning flight is hereby forbidden. His Majesty's intentions must be well understood, and all classes dutifully feeling at ease must carry on their ordinary avocations and be tranquil in their natural positions.

JULY, 1868.

*Copy of notices addressed to the municipal officers of the city.*

During the space of three days from to-morrow, July 4, no boats are allowed to leave the shore.

COUNCILLORS OF THE COMMANDER-IN-CHIEF.

JULY 3, 1868.

During the space of three days from to-morrow, July 4, no porters are to be furnished at any of the post towns.

COUNCILLORS, &c.

JULY 3.

Old persons, children, and sick, must be removed during the course of the day to places (of safety) in the neighborhood.

COUNCILLORS, &c.

JULY 3.

[From No. 4 of the Yedo Gazette of July.]

*Copy of letter addressed to Riu-o-ji No Miya, of Wuyeno.*

Tokugawa Keiki having given proofs of his submissiveness, his Majesty appointed a successor to his name and family. It was the duty therefore of the members of the Tokugawa clan to have continued in seclusion. On the contrary, the contumacious have lawlessly broken loose, and assembled in numbers at various places, not only disregarding the wishes of their master, but also assassinated the troops of the government and plundering the people of their property; thus obstructing the imperial government. In consequence of these lawless acts, it is indisputable that force might properly have been at once employed against them. The reason of the delay which has taken place is that on account of the affection entertained for the person of the Miya, the imperial court has proceeded with the greatest delicacy, and the Miya commanding in chief, also moved by the deepest feelings of anxiety for his safety, has sent messengers to him inviting him to take up his residence in the castle. Subsequently his Highness sent one of his military councillors (Sanbó,) but no audience was granted to the latter. Further, in spite of his Highness having sent for Gakoû-in and Pio-ô-in, they did not appear. It is therefore impossible for his Highness to render them any further assistance, and he is filled with burning anxiety in their behalf. However, as the people would be plunged into misery and the imperial authority seriously impaired if the acts of the enemies of the state were passed over with impunity, it has been found unavoidably necessary to order the employment of force.

We have therefore received the orders of his imperial Highness, the commander-in-chief, to represent to the Miya the advisability of his retiring from the scene of the apprehended contest at once.

We have the honor to make this communication to you and to beg you to lay it before the Miya.

JULY 3, 1868.

Orders have already been issued against the commission of acts of violence and lawlessness, such as setting the houses of the common people on fire unnecessarily, or plundering their household property, and the strict observance of these orders is now reiterated.

JULY 3, 1868.

JULY 7, 1868.

On the 4th July, at early dawn, the forces were marshalled in front of the great gate of the castle, when each body marched to the post assigned to it and commenced the attack. The fighting commenced at eight o'clock in the morning and was over by five in the evening.

The government forces gained a great victory and routed the rebels entirely. The whole of the buildings within the inclosure of Wuyeno were reduced to ashes.

The different clans have not yet sent in their reports of the number of the enemy slain and the spoil taken.

There was a report yesterday that the rebels had collected in Gokokugi and Shounji, &c., and troops were therefore dispatched to those places, but it appears that they had disguised themselves in various ways and gone off by threes and fives in all directions in the morning.

Troops were marched again to-day to the vicinity of Wuyeno and Hongo for the purpose of attacking the remains of the rebel forces, but we believe that there are very few left.

JULY 6.

Hitherto the rebel bands collected in different places have committed every kind of violence and atrocity. The unprovoked assassination by them of soldiers of the government forces amount to more than thirty in number. In addition to this, they have extorted money in many ways in the name of the government forces. Being thus guilty of the most abominable conduct, we think it would be well that foreigners should be made acquainted with the unavoidable necessity which called for the attack on them.

From Yushima to the street in front of Block Gate: Satsuma; Inaba; Higo.
Advanced from Hongo and the Castle of Kago: Choshu; Chikugo, (Arima;) Sadowara; Omura.
From Mito Shimo Yashki: Sadowara Todo and Owari Hokakutai artillery.
From Shitotsubasi to the aqueduct bridge: Awa.
Near the Chinese school, (Seido:) Shimbatta.
At Morikawa near the branch road: Bizen.
These three posts were supported.

Okawa bridge: Kishu. Two military officers attached.
Great bridge at Sendai: Inaba.
Kawa Kuchi: Okubo Toichiro.
Oshi: fifty men, of Geishu.
Kawagoye: fifty men, of Chikuzen.
Near Ogi: Todô geishû and Chikuzen.
Yoda: fifty men, of Bizen.
Koga: fifty men, of Hizen.
Numata: fifty men, of Higo.
These nine posts were supports.

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*Proclamation issued for the Tokugawa clan, on the 3d day of the 5th month, 22d June, 1868.*

It has already been proclaimed that Kamenoske Sama shall be called Wuye Sama, (Upper lord, Tycoon's title,) and that the Wuye Sama (Tokugawa Yoshinobu) (Tycoon) shall be called Sakino Wuye Sama, (former Upper lord.)
These titles shall be used among the Tokugawa clansmen only, and not generally.
These distinctions should be well remembered.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 69.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 13, 1868.

SIR: On the 3d instant the foreign representatives held a joint conference with Higashi Kuze Chiujio, the minister for foreign affairs, and at his request—his colleague, Hisen Jijin, being then in Yedo.

Higashi opened the conference by informing the representatives that perfect tranquillity now prevailed in Yedo; he had only two days before returned from that city, and felt assured that the representatives, if they so desired, could with perfect safety resume their residences there. Foreign merchants might also come up to Yedo and reside in the quarter set apart for their occupation and engage in business. The safety of the merchants, however, in going about the streets could not well be secured, as the police department was still in the hands of Tokugawa officers. "From this day," this minister asserted, "the Mikado's government will be responsible for the safety of the legations and their property, and also for the foreign merchants, provided they will remain in their houses."

Within a few days the Mikado's government would take possession of the police department, and the whole city would then be quiet and safe.

He expressed a strong desire that Ne-egata should not be opened at present, as the province of Etshingo, in which it is situated, was the scene of war.

The Prince of Sendai had been declared a rebel, and in the province of Etshingo the Mikado's government was unable to afford the requisite protection to foreigners. The minister promised to address the representatives on the subject of Ne-egata in writing, and I now transmit inclosure No. 1, copy of his letter.

The question of the sale of lands at Osaka and Hiogo came up for consideration, but was postponed to some future day, the matter not being pressing.

I should observe here, that when this minister addressed the foreign representatives in regard to Yedo, with the view of inducing them to assent to its opening for trade and residence, he must have been at that moment fully aware of the contemplated attack on Wuyeno temple, as a few hours after that interview his letter transmitting the general orders for the assault, which forms inclosure No. 1 of my dispatch No. 68 of this day, was received, and early on the next morning the attack was actually made as reported in that dispatch.

The opening of Ne-egata was greatly desired by the Italian representative, in the hope that a supply of silk-worm eggs might be obtained there, and in the present disturbed state of affairs in this part of Japan, there is every reason to apprehend that supplies of this extremely valuable article, so urgently needed both in Italy and France, will this year be very limited if not principally cut off. The Prussian chargé d'affaires joined our Italian colleague in insisting upon the temporary opening of that port on the 15th instant, but the other representatives, like myself, did not deem it judicious to join in a measure which seems almost impossible of success not only, but from which, if adopted, complications are not unlikely to arise. There being no Japanese government in any part of this country strong enough to protect our citizens and subjects, the principle of permitting our people to visit only such places or ports where they can be protected by their respective governments, should be adhered to, and it is on this ground that the majority of the representatives based their action.

I am happy to inform you that this difference of opinion has not in the least disturbed the cordial accord among the foreign representatives, with all of whom I remain on perfectly pleasant terms.

I transmit inclosure No. 2, copy of a notification issued by the British minister on this subject.

Foreigners of several nationalities, it appears, have already proceeded to that port, but it is very doubtful whether they will succeed in procuring any silk-ova, and I have not yet heard of there being any Americans amongst them.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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JULY 7, 1868.

SIR: The date fixed for the opening of the port of Neegata, in Etshingo, has already passed, but its vicinity is at present the theater of war. A large number of troops have been dispatched thither, but the restoration of tranquillity has not yet been reported. It would be impossible for us to undertake properly the protection of foreigners residing there in its present disturbed condition, and we should feel great anxiety on their account. We wish, therefore, to arrange for the postponement for a short time. The question of the opening of that port is at present the subject of much attention at Kioto, and some persons charged with jurisdiction over the Japanese have already proceeded to Takata, in Etshingo. Military officers have also been sent thither, and we

expect to hear of the success of their operations. Until, however, that takes place, we request that your countrymen will abstain from proceeding to Neegata.

HIGASHI KUZE CHENJIO.

His Excellency R. B. VAN VALKENBURGH,
*Minister of the United States.*

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*Notification.*

The undersigned hereby publishes for general information the accompanying dispatch received from her Majesty's minister, relative to the state of insecurity still prevailing at the port of Neegata.

LACHLAN FLETCHER,
*Her Britannic Majesty's Consul.*

BRITISH CONSULATE,
*Kanagawa, June* 25, 1868.

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YOKOHAMA, *June* 25, 1868.

SIR: I am informed that the consuls of Italy and Prussia at this port have been instructed by the representatives of those powers to make known to the Italian and Prussian subjects that they can proceed, with the approval of the said representatives, to Neegata, to carry on, from the 15th proximo, whatever trade the treaties admit of, under certain risks.

As the knowledge of these instructions may lead to inquiry among British subjects, I have to direct you to apprise the latter that, having been lately officially informed that Neegata is at present the scene of a civil contest between the government of the Mikado and the Daimio Aidzu, I am not yet at liberty to change the opinion I have already expressed in my notification of the 28th March last, as to the insecurity which may be found to prevail at that port.

I am, sir, your most obedient, humble servant,

HARRY S. PARKES.

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## *Mr. Seward to Mr. Van Valkenburgh.*

No. 55.] DEPARTMENT OF STATE,
*Washington, July* 15, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 29th of May, No. 54, by which I learn that some Japanese subjects were recently shipped with duress, or compulsion, as laborers, under form of a contract to work on plantations in the Hawaiian Islands, by a person claiming to be a citizen of the United States.

I learn, further, that you have censured this proceeding, and have given notice of your disapprobation thereof to the Japanese government. You further inform me that you promulgated an order or regulation on the 26th of May last, whereby you declared that the act of Congress to prohibit the coolie trade, approved February 19, 1862, and which was framed in regard to China, was thereby made applicable to Japan.

The spirit in which these proceedings were taken, is approved by the President. This department, however, upon examining the subject, has come to the conclusion that the order or regulation which you have thus promulgated is without sufficient foundation in law, and is, therefore, invalid and ineffectual. You will, therefore, be under the necessity of rescinding that regulation. On the other hand, to provide a remedy against the newly discovered evil, application will be made to Congress to amend the act of February 19, 1862, so as to extend and apply its provisions. The result of this application will be communicated to you.

A copy of the existing resolution of Congress on the subject of the coolie trade is herewith inclosed, together with a copy of the circular of this department of the 17th of January, 1867.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 56.] DEPARTMENT OF STATE,
*Washington, July* 15, 1868.

SIR: Your dispatch of the 26th of May, No. 52, has been received. It communicates the fact, which is announced by the press in Japan, that the men of Yedo who were executed at Saki for the murder of eleven unarmed Frenchmen, in violation of treaties, have been canonized in Japan. You regard this information as authentic, although you express the belief that the Mikado's government is not wilfully guilty of canonizing Japanese for the murder of foreigners, and you further express the opinion that the proceeding was the work of some high priest or functionary, which the Mikado's government is powerless to prevent.

The proceeding thus brought to the notice of this government is one to be deprecated and regretted. It might well be the subject of protest and remonstrance by the representatives of the treaty powers, but occasions for protests and remonstrances are so frequent, that to resort to that form of proceeding always involves a question of political expediency. You will exercise your sound discretion, in conjunction with the representatives of the other treaty powers, in determining whether to make such a protest in the present instance, or to let the affair pass away in silence.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 57.] DEPARTMENT OF STATE,
*Washington, July* 18, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 25th of May, No. 50, in which paper you have brought down to that date your account of the revolutionary proceedings which have taken place in Japan.

The paper encourages the hope that a settlement between the belligerents may be made at an early day on a basis honorable to the contending factions. Every friend of humanity, in or out of Japan, must surely desire so auspicious a result.

Your proceeding in relinquishing the police of Yokohama to the Mikado's authority is approved.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 74.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 21, 1868.

SIR: I have the honor to transmit herewith No. 1, copy of a memorandum of joint resolutions unanimously adopted by the foreign representatives for the safety of Yokohama, and, No. 2, copy of the resolutions of the commanding officers now in this station in reply.

Higashi Kuze Chiujio readily admitted the expediency of the measure, and I now have the pleasure to inform you that the four guard-houses required were promptly ordered and are now being constructed by him.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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UNITED STATES FLAG-SHIP PISCATAQUA, (1st rate,) ASIATIC SQUADRON,
*Yokohama, July* 13, 1868.

The under-mentioned commanding officers having met this day to take into consideration the suggestion of the ministers of the foreign nations at Yokohama to establish four posts for the protection of foreigners in the settlement, are of opinion that this can be effected by establishing a post of one non-commissioned officer and ten men at the northern extremity of the street called Honcho Dori, to be furnished by the French troops. *Second:* A post of one officer and fifteen men at the police station opposite the custom-house, to be furnished by the British. *Third:* A post of one officer and fifteen men towards the center of the main street, to be furnished by the Dutch. *Fourth:* A post of an officer and twenty men by the American legation, to be furnished by the Americans.

Each of these posts will have a double sentry, and will send patrols at uncertain hours during the day through the main thoroughfares of the town.

As soon as intimation has been received that the guard-houses have been provided, the above mentioned posts will be established.

S. C. ROWAN.
THOS. DE CHALLIE.
B. RADFORD NORMAN,
*Commander-in-chief British Garrison.*
J. VANGOGH.

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*Memorandum.*

At a meeting held at the French legation this 8th day of July, 1868, between the representatives of France, Great Britain, Italy, the Netherlands, Prussia, and the United States of America, the following resolutions were unanimously adopted:

1. That owing to the present disturbed state of affairs, the undersigned are of opinion that due regard for the safety of foreign residents at Yokohama renders it necessary that foreign guards should be posted at the following four points, namely: the police station, opposite the custom-house, the center of the main street, called Honcho Dori, and at the northern extremity of the same street.

2. That the duties of these guards should be confined to those of assisting any foreigners who may be attacked, or who may apply to them for protection, and generally, also, in observing the state of the quarter in which they are stationed. Patrols might pass for this purpose between the different posts, but they should not interfere with armed or other Japanese, except in defence of foreigners.

It is proposed that guard-houses shall be provided at all the four points above named,

and that the Japanese authorities shall be invited to co-operate with the undersigned in the execution of these arrangements.

HARRY S. PARKES,
*Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.*
COMTE DA LA TOUR,
*Envoy Extraordinary, Minister Plenipotentiary of His Majesty the King of Italy.*
MAX OUTREY,
*Minister Plenipotentiary of France.*
R. B. VAN VALKENBURGH,
*Minister Resident of the United States.*
M. V. BRANDT,
*Chargé d'Affaires of Prussia.*
D. DE GRAEFF VAN POLSBROEK,
*His Netherland Majesty's Political Agent and Consul General in Japan.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 75.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 22, 1868.

SIR: The Italian and Prussian representatives having determined, as reported in my dispatch No. 69, of the 13th instant, to insist upon the opening of Neegata, for the purpose of preserving silk-worm eggs, against the wishes of the Mikado's authorities, I now have the honor to inform you that their intention was carried out, and that several vessels have since cleared for that port.

I transmit herewith inclosure No. 1, copy of the Prussian chargé d'affaires' letter to the minister for foreign affairs, covering copy of his instructions to the Prussian consul. The letter and instructions of the Italian minister are identical.

I also transmit No. 2, copy of my letter to our consul at this port on the subject.

It can only be hoped, for the sake of the important interests involved, that those who ventured to this new field of enterprise may be successful, and that, in the present disturbed state of that part of Japan where fighting is said almost daily to be going on, the presence of foreigners may not lead to an increase of the existing complications.

I further transmit No. 3, copy of a letter from Hegashi Kuze Chiuijio declaring it to be the intention of the Mikado's government to make Osaka a port of entry, and to open Yedo as a city only.

Until tranquillity has been restored, and trade shall have revived, it is not probable that such legislation will lead to any practical result, and I am inclined, therefore, to postpone the discussion of those measures to a future and more favorable time.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

YOKOHAMA, *June* 24, 1868.

At the conference which their excellencies the ministers for foreign affairs held with the representatives of the six treaty powers, on the 6th instant, their excellencies declared that the government of his Majesty the Mikado did not intend to object to the opening of Neegata, which had been agreed upon in the treaties and conventions concluded

between the foreign representatives and the government of the Taikoon. Their excellencies added, at the same time, that they wished to get some further information on this subject from Yedo and Kioto, which they would hasten to communicate to the foreign representatives at the latest in fifteen days. As the undersigned has not received any communications on this subject from their excellencies, he must assume that they have nothing to add to the declarations made in the conference of the 6th instant.

Therefore the undersigned has the honor to enclose to their excellencies copy of a letter which he addresses to his consul, and in which he communicates to this official the conditions upon which Prussian subjects may go to Ne-egata. The undersigned hopes that their excellencies will regard this letter as a new proof of his wish to avoid everything that might be disagreeable to the government of his Majesty the Mikado, and to obtain for the interests of the country he has the honor to represent in Japan only what is absolutely necessary.

With respect and consideration,

VON BRANDT,
*His Prussian Majesty's Chargé d'Affaires.*

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YOKOHAMA, *June* 24, 1868.

By my letter of the 30th March I instructed you not to allow Prussian subjects to go to Ne-egata, opened *de jure* from the 1st April, 1868.

The reasons which at that time dictated this measure still exist in part, but other reasons of a higher interest render it now very desirable that Prussian subjects should be allowed to go to Ne-egata in a regular and legitimate way, at least for some months of this year.

The troubles in the country around Yedo render it more than doubtful if the requisite quantity of silk-worm eggs will be brought to Yokohama, and new facilities should therefore be given to those who trade in this article.

The minister for foreign affairs having declared to me that the government of his Majesty the Mikado has not the intention of presenting any opposition to Prussian subjects visiting Ne-egata, you will inform Prussian subjects that his Majesty's authorities have no further reason to prevent them going to Ne-egata from the 15th July of this year, and exercising there such trade as the treaties admit of.

It is to be hoped that the government, also, in whose hands Ne-egata will be on the 15th July, will present no opposition to these visits from Prussian subjects.

It will, however, be your duty to inform Prussian subjects that it will not be possible to guarantee to them at Ne-egata the same security they enjoy at the other ports of Japan.

M. VON BRANDT.

A. REIS, Esq.,
*His Majesty's Acting Consul.*

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LEGATION OF THE UNITED STATES,
*Yokohama, June* 25, 1868.

SIR: Information having been received by me that the consuls of Italy and Prussia are authorized to make known to the subjects of those powers that they can proceed to Ne-egata after the 15th July next, for the purpose of carrying on such trade as is permitted by the treaties, I deem it my duty to inform you that the Japanese ministers for foreign affairs have communicated to me the fact that a state of war is existing at Ne-egata, and therefore I deem it unavoidable at this moment to declare that port opened to American citizens.

As soon, however, as it is deemed safe for the purpose of trade I shall give you further information.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

General J. STAHEL,
*United States Consul, Kanagawa.*

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I have the honor to inform you that it has been decided on our part to make Osaka a port of entry, as soon as an agreement to that effect shall have been made with the foreign representatives.

I also have to notify you that, even if the representatives should desire it now or hereafter, Yedo cannot become a port of entry, and that it is intended to open it as a city. The 28th day of the 5th month, (17th July.)

HIGASHI KUZE CHIRIJIO.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States, &c., &c., &c.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 76.] LEGATION OF THE UNITED STATES,
*Yokohama, July* 25, 1868.

SIR: The southern troops reported in my dispatch No. 68, of the 13th instant, as having passed that day through Kanagawa, marched, it appears, some two thousand strong as far as Sakawa River, crossed it two days afterwards, and entered Odowara without encountering any opposition.

The Tokugawa men, under explicit instructions from their chiefs to act on the defensive only, reluctantly fell back. Their rear, however, was overtaken by the southern troops at Hatta and Yümoto, and an engagement ensued in which about one hundred of these men are reported to have been killed. The Tokugawa men then continued their retreat unmolested.

Skirmishes to the north of Yedo are again occasionally reported; in some places the peasants are said to have taken up such arms as they could find, and to have killed a few of the invaders. Orders are being constantly issued by the Tokugawa chiefs to their men, wherever they are stationed, to avoid hostilities for the present, and these orders it cannot be difficult to obey in most cases, as, partly from a sense of insecurity perhaps, and partly also from a desire to retain their hold of Yedo, the southern troops have now principally been withdrawn from the country and concentrated in that capital.

The people complain of oppression, because they are still required to meet all requisitions for provisions and necessaries of the southern troops without receiving payment therefor; luxuries, however, are not included, and must be paid for in ready money. Attempts have been made to pass paper currency, but the people declined to take it, and the attempts had to be abandoned.

For nearly three hundred years Yedo has been considered the center of Japanese civilization. In that immense city there are innumerable tea gardens and places of amusement; and though it has lost much of its former splendor, there is enough left to make it, for a native, a most attractive place of residence, with which nothing in his own province can be compared. Already the southern troops, it appears, are less exacting. Fancying themselves the conquerors, with little or no more work before them, they are now, it is reported, indulging freely in dissipation. Their chiefs are now obliged to provide their pay; and both officers and men are spending it in a manner that may easily be imagined.

I would not be surprised if it should prove to have been part of the policy of the Tokugawa chiefs to try the effects of inactivity and dissipation on their southern invaders previous to taking action for their expulsion, and in the hope probably that such action may ultimately be rendered unnecessary altogether. With a treasury that shows as yet no signs of weakness, the Tokugawa chiefs can hold out much longer than their southern opponents, who not only exceeded their revenues, but are heavily in debt to English and French subjects besides.

There is an evident anxiety on the part of the southerners to bring matters to a speedy close, and on the Tycoon or Tokugawa side, the very opposite course seems to have been adopted. When fighting near Odowara and Hakoné became imminent, a Tokugawa steamer left Yedo and communicated with the troops in Odowara, urging them not to bring on a collision at present, but to evacuate the strong points they had already occupied.

On the 20th instant, two Japanese steamers from Hiogo landed about five hundred men, principally Satsuma troops, to re-enforce the army in Yedo. The young Prince of Satsuma himself is suspected of being now concealed on board of a ship in this harbor, for the purpose of watching events and giving directions in person.

The Prince of Neegato, son and heir of Prince Choshin, who himself is one of the bitterest opponents of the Tycoonate, is reported to have declared against the new government. From Osaka I also learn that the Daijokan, the great council of the Mikado, is said to have come to an end, as the councillors adjourned *sine die.* This is a mere rumor, however, and though it reached me from a good source, it would be too important to accept it without full confirmation.

On the day before yesterday a steamer bringing agents or envoys of the northern Daimios on board, arrived at Yedo. The object of their visit will probably not be known for some time.

It is also reported that Kugo Dainagong, the high functionary who in the name of the Mikado's government was to have taken charge of the northern provinces, has declared against the court or government that appointed him, and authorized the northern coalition to raise the Mikado's flag for their cause.

No one, probably, in this country, knows the people better than Tokugawa Yoshinobu, who is now called the late Tycoon. When in January last he found himself utterly betrayed in his council and in the field, he carefully examined his resources on his return to Yedo. If, then, the suggestion of his principal army and naval officers to resist invasion and to carry the war into the enemy's country had been adopted, several Daimios who have since remained neutral might have been induced to unite with his opponents.

Mistrusting, as well he might, many of his own Daimios and retainers, he offered, under the inalienable right of a Tycoon, to appoint the Prince of Kishü his successor, as reported in dispatch No. 23 of this series. But when his envoys returned with an unsatisfactory reply, and he thus failed in securing the alliance of that prince, which would have been followed by a complete adhesion of all the Daimios, whose territories are situated between that province and his own, he withdrew to the temple of Wuyeno, in Yedo, there to do penance and obtain absolution for what errors or misdemeanors he was supposed to have committed. "The Tycoon submits to the Mikado," was the word that went forth to all parts of Japan. His humility disarmed several of his opponents, and afforded others, who were strongly urged to do so, an excuse for not sending their contingents to swell the army that was to take possession of his eleven provinces.

It is said he actually addressed notes to the principal Daimios opposed to him, conveying assurances of his sincere submission, and asking that some provision might be made for him. In this manner he collected donations of money from nearly all of them, and then withdrew to the castle of Mito, where he still remains. After a cautious advance, the southern, or so-called Mikado's troops, marched without encountering any opposition into Yedo, for the purpose of taking possession. But when they came to the treasury it was found empty; the Tycoon's army left and the fleet did not lower its flag. The Tycoon was desired to issue orders for the unconditional surrender of both army and navy, and he promptly complied with the request. His orders, however, were disregarded.

How could it be otherwise? The power to enforce them had been taken away from him by the Mikado.

Not a musket, not an ounce of powder; nothing in fact of the slightest value to them could the southerners find in Yedo. Everything had been removed, and no one could tell whither. The rice magazines remained in charge of the Tycoon's officers. Some rice was left in them, but in the name of the Tycoon, who well knew that it was not worth his while to keep it, it was gratuitously distributed among the people, who, moreover, are under the impression that his policy has been chiefly influenced by a regard for their interests, and with the view of keeping the war out of the capital.

Ever since the failure of an alliance with the Prince of Kishū, all efforts have been directed to bring about an alliance with a united north, and in this the Tycoon appears to have been completely successful.

The treachery of which he experienced so much, is now apparently showing itself among his opponents. This, and the effects of inactivity and dissipation among the southern troops, are two causes to which the Tokugawa chiefs are evidently anxious to allow full scope; and hence their stringent orders to their troops, so often disobeyed, yet in the main enforced, of avoiding collision for the present.

The chief object of the southern Daimios is undoubtedly to obtain possession of the Tycoon's eleven provinces, yielding an immense revenue, which is then to be distributed.

They are now supposed by many to have taken those provinces because they have possession of Yedo. It is extremely doubtful, however, whether they will be able to hold them for any length of time, even if their claim to possession should be confirmed.

Not until the latter part of November can this be properly tested, when rice will be harvested and taxes and revenue are to be collected. Before that time I sincerely hope peace may have been restored in this country.

The Piscataqua, with Rear-Admiral Rowan, the Shenandoah, Oneida, and Maumee, are now in port.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 78.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 3, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, a copy of letter from Higashi Kuze Chinjio, minister for foreign affairs, informing me that from the 1st of September next Osaka will be a port of entry.

Among the foreign merchants at Hiogo and Osaka, the opinions of the relative future importance of those two places have been much divided, and by this measure they are now placed on a par.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

To His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States, &c., &c., &c.:*

I have the honor to inform you that it has been determined to make Osaka a port of entry from the 15th day of the 7th month of this year, Ke Wo, as agreed upon at my recent conference with all the foreign representatives.

On the 6th day of the 6th month—July 25, 1868.

HIGASHI KUZE CHINJIO.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 79.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 10, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, copy of arrangements for the sale of leases of ground at Hiogo and Osaka, agreed upon by the foreign representatives and the Japanese authorities.

The construction of the sixth article of these arrangements is that the requisite roads and drains shall be built by the Japanese authorities, and at their expense; the ground thus prepared will then be sold, and the repair and maintenance of these roads, and drains, will be at the expense of the foreign purchasers or owners, except in extraordinary cases as provided.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Arrangement.*

I. The leases of all the land at Osaka contained in the site granted for the use of foreigners by the Japanese government under the arrangements of 1867 shall be put up to public sale on the 1st day of September next, or on any day subsequent to, but as near to that date as can be arranged by the local Japanese and consular authorities.

The official plan of this site, which has already been published, will be adhered to as far as possible. Modifications unanimously approved by the local Japanese and consular authorities may be introduced, but shall be made public at Osaka not less than five days before the day of sale.

II. At Hiogo, the local Japanese and consul authorities shall determine the quantity and the position of the land on the foreign concession which shall be put up at the first public sale of leases, and also the date of the sale. The Japanese government shall provide for public inspection at Hiogo, not less than five days before the day of sale, a plan of the land to be thus disposed of, showing the number and location of the lots, and the proposed roads and drains. The lots shall vary in size from two hundred to six hundred tsubos, and the streets or roads shall not be less than forty feet in width.

III. The upset price of land to be thus leased at Osaka and Hiogo shall be eight bus per tsubo, of which six bus shall be retained by the Japanese government, in reimbursement of the money already expended by them in preparing the said sites, as building ground for foreigners, and the remaining two bus shall be transferred by the Japanese government to a municipal fund to be formed at each settlement, and to be used for the construction or repairs of roads and drains, lighting the streets or other municipal purposes.

The Japanese government consent to relinquish for the uses of this fund a moiety of all money that may be realized at the public sales of land at Osaka and Hiogo, over and above the aforesaid upset price.

IV. The sale of the leases of lots at Osaka and Hiogo shall be conducted upon the conditions annexed to this arrangement. All land without the said sites remaining unsold shall be put up again at auction, at such subsequent dates as may be determined by the local Japanese and consular authorities, and in each case a month's notice shall be given of such intended sale.

V. The annual rent of the said ground at Osaka and Hiogo shall be one bus per tsubo, which shall be paid in advance into the municipal fund of each place, and shall be appropriated to the repairs of roads and drains, lighting the streets, or other municipal purposes, subject, however, to a first charge of one thousand five hundred and twenty-four bus at Osaka, and one thousand six hundred and forty-one bus at Hiogo, which sums shall be paid annually to the Japanese government, as the ordinary land tax due on the said ground.

VI. In consideration of the formation of the municipal fund at each settlement as aforesaid, the Japanese government will not be held responsible for the construction or repairs of roads, drains, lighting the streets, or other municipal expenses, except in the event of serious damage being occasioned by extraordinary action of the elements. In such case, the share to be borne by the Japanese government in making good such damage shall be determined by mutual agreement.

VII. All payments to be made by the land renters under this arrangement to the aforesaid municipal funds shall be paid by them to their respective consular authorities, and shall be transferred by the latter to the said funds.

The administration of the said funds shall be conducted at each settlement by the local Japanese and consular authorities, in conjunction with a standing committee of the foreign community, to consist of not more than three members, who shall be elected from and by the registered foreign residents. The mode of electing the said committee and their term of office shall be determined by the consular authorities.

VIII. In order to provide for the cost of a foreign police force at the settlement of Hiogo or Osaka, in the event of such a force being required, each land renter shall be liable to pay annually to the municipal fund a sum not exceeding one-third of a bu per tsubo; the amount to be paid each year, and the time of payment shall be determined by the local Japanese and consular authorities, together with the standing committee mentioned in the preceding article.

IX. The Japanese government will keep in good order, at their own expense, the sea and river walls, parapets, and landing places of both the said sites, and will maintain at the landing places such a depth of water as shall enable persons to land there at all times of tide.

*Conditions of the public sale of the leases of land in the foreign settlement at Hiogo and at Osaka.*

I. The land in each settlement will be put up in lots, in consecutive order, as numbered on the official plans, until all the lots shall have been offered for sale. Copies of the plans, duly stamped by the local Japanese authorities, will be lodged at the government office and at the offices of the several foreign consulates at Hiogo and Osaka, respectively.

II. The highest bidder shall be the purchaser, and in the event of any dispute arising between two or more bidders, the lot shall be put up again and resold.

III. The advance on each bid shall not be less than five cents of a bu per tsubo.

The bids must be made in an audible voice.

The auctioneer will not be allowed to bid either for himself or any other person.

On the fall of the hammer the party in whose name the title deed is to be made out shall be announced by the auctioneer, and at once registered, and the title deed shall not be made out in any other name.

IV. The highest bidder for any lot must, on the fall of the hammer, and before the next lot is put up for sale, pay down as a deposit the sum of four hundred bus, which will be deducted from the sum due on the delivery of the title deed.

Should this deposit not be immediately paid, the bidder will lose all title to the lot, which will again be put up before any other lot is sold.

V. The title deeds, which will be made out in the annexed form, will be dated the ——— day of ———, 1868, and will be ready for delivery on that day. No title deed will be delivered to any other person than to the party in whose name it is made out, unless the applicant produce a power of attorney, or other satisfactory evidence, authorizing the purchase of the lot or the delivery of the title deed, which document, or certified copy of it, will be retained by the local Japanese authorities. Should any purchaser fail to complete the purchase by the ——— day of ———, 1868, he will lose all right to the lot, which will be put up to sale at the next auction. In that case the deposit money will be forfeited to the Japanese government.

VI. A fee of twenty bus will be paid to the local Japanese authorities on the delivery of each title deed.

VII. In addition to the purchase money, the purchaser of any lot or lots, or his heirs or assigns, shall pay an annual rent of one bu per tsubo at Hiogo and Osaka, in the manner provided in article five of the annexed arrangement.

VIII. In addition to the above named rent, the holder of any lot will be liable to a yearly charge of a sum not exceeding one-third of a bu per tsubo, to be paid as a contribution to the maintenance of a foreign police force for the settlement in which the lot is situated, in the manner provided in the annexed arrangement.

IX. No title deed shall be issued to any person who cannot prove himself to be a subject or citizen of a power having a treaty with Japan.

*Form of title deed.*

In consideration of the sum of —— bus, the payment whereof is hereby acknowledged, the undersigned ——— ———, acting on behalf of the Japanese government, hereby leases in perpetuity to ——— ———, his heirs and assigns, the lot of land numbered and described in the official plan of the foreign settlement at ——— ——— as No. —, and containing —— tsubos, more or less, on the following conditions:

Firstly. That the said ——— ———, his heirs or assigns, shall pay in advance on the —— day of ———, in each year, to his consular authority, the sum of —— bus as rent, being at the rate of one bu per tsubo, as provided by article 5 of the arrangement concluded between the Japanese government and the foreign representatives on the 7th day of August, 1868.

Secondly. That the said ——— ———, his heirs or assigns, shall pay annually to his consular authority such charge for the maintenance of a foreign police force in the said settlement of ———, not exceeding one-third of a bu per tsubo, shall, as be determined in the manner provided by article 8 of the aforesaid agreement; and, thirdly, that every transfer of the said lot No. —, or any portion thereof, shall be made to no other person than a subject or citizen of a power having a treaty with Japan, and shall be executed before the consular authorities of the parties concerned. For non-performance of any of the aforesaid conditions proceedings may be instituted against the said ——— ———, his heirs or assigns, before his or their consular authorities.

Done in duplicate, one copy being given to the renter and the other being filed by the said local Japanese authorities this —— day of ———, in the year one thousand eight hundred ———.

[SEAL.] [Signature of local Japanese authority.]

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 80.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 13, 1868.

SIR: On the 27th ultimo, the day after the departure of the last United States mail, an English steamer arrived at this port from Hiogo, with between sixty and seventy Choshin officers and men on board, the object of whose visit, as freely stated by them to other passengers, was to take possession of the Stonewall by order of the Mikado, and then return in her to the inland sea.

It is probable that on their arrival they communicated with the Mikado's authorities stationed here, and learned from them that the vessel could not at present be delivered. At all events I was not troubled with a fresh application, and the Choshin men soon left this place.

Of all dignitaries in this country, this Prince Choshin, in my opinion, is the last to whom such a ship could with safety be delivered; as he has always been most prominent in his dislike of foreigners. By attempting to close the straits of Simonosaki, and firing on foreign ships, he fully earned the severe chastisement he received from the allied squadron in 1863. Never since has he wavered in advocating an anti-foreign policy on every occasion. I have the honor to transmit inclosure No. 1, translation of two documents, published in authorized newspapers, dated April and July of this year, respectively, in which the prospective expulsion of foreigners is referred to. There is no room for doubting the authenticity of these documents, as Choshin's position as a leading member of the Mikado's government gives him ample power to suppress or contradict such publications if he had felt disposed to do so.

I transmit inclosures Nos. 2 and 3, translation of two interesting documents on the political condition of this country. These documents appeared in the public prints, and under the censorship of the press that

is rigidly inforced, they may be accepted as containing authorized statements or opinions.

I also transmit inclosure No. 4, translation of a proclamation issued on the 24th ultimo to all Tokugawa or late Tycoon's officers, in the name of their chief, requiring them to declare whether they will remain faithful to their clan or not. The official returns, I am informed, show that a large majority have elected the first alternative, although they are aware that they may be called upon to serve, but without pay. On the same day the Tokugawa clan were notified by the Mikado's authorities that all officers should declare in favor of the Mikado's government at the risk of confiscation of their property in case of refusal. From a high officer of the late Tycoon, in whose statement I feel inclined to place full confidence, I learned that but very few of the Tokugawa officers made the desired declaration, and forty-five thousand, that is nearly all of them, paid no attention to the public notice. These forty-five thousand officers, who, with their retainers and families, number over four hundred thousand souls, may now at any moment expect that the threat of confiscation against them will be carried out. As there is no one, however, in Yedo or elsewhere to purchase their property if confiscated, the threat will probably remain an empty one.

You may easily conceive from the large number of officials employed how extremely elaborate the system of government of the Tycoons has been. Nearly five thousand of these people, exclusive of army and navy, daily attended some public office or other in Yedo alone; the duty of each official was strictly limited, with innumerable checks and counter checks on private and official action; individuality was wholly lost, and each official person, even the highest in rank, was only a part of a system, based entirely on an utter mistrust of men and things. It is not surprising, therefore, that in a crisis like the present, and with the overthrow of the official system, its component parts lost all cohesion. I cannot believe that self-reliance is utterly crushed out of these numerous officials, but am rather inclined to think that if the late Tycoon, or any one among his principal retainers, should raise his flag, thousands who are accustomed to obey, and are as fit to follow as they are unfit to lead, would rally round such standard, and that in this part of Japan great changes would be the immediate result, as in such case the army under the Mikado's flag would find itself greatly outnumbered.

In the meantime fighting in the north continues. It is known that the great Daimios have not yet entered the field with their regular forces; engagements on a small scale take place daily between the Daimios troops under the Mikado's flag and the disbanded retainers (called ronins) of the late Tycoon and the northern princes.

Reinforcements from Yedo are constantly being dispatched to the north by the Mikado's chiefs, who, moreover, lately received from Kioto and Osaka an accession to their forces of about five thousand men, belonging to western Daimios.

The aggregate results of all these military operations do not seem to have been favorable to the Mikado's cause. No victories are being proclaimed; all the newspapers in Yedo are now suppressed by the Mikado's authorities, and scarcely a day passes without the arrival in Yedo of wounded men from their army, who immediately are taken to the castle, and no communication is allowed with them.

It appears to be beyond doubt the policy of the Tokugawa and northern chiefs to avoid general engagements, to constantly harass their enemies with small bands of determined and devoted men, while the larger bands act on the defensive, and in support of their skirmishers; the

object being to exhaust rather than destroy their enemies, and in this manner bring the war to an end. The Mikado's treasury is as weak as that of the northern chiefs appear to be strong. Remittances of money for the payment of the troops are constantly received by the Mikado's officers from Osaka, but these supplies are likely to be stopped at any moment. It was first attempted to pass irredeemable paper currency in Yedo, but the attempt had to be abandoned. Then it was suddenly ordered, that a very common eight cash coin should pass for sixteen cash, or double its usual currency, and for the carrying out of this new shift force had to be resorted to; but the people in Yedo raised the price of their commodities, and in this manner successfully met the imposition.

I transmit inclosure No. 5, translation of a decree of the Mikado's court for the issue of paper money, showing the utter destitution of this new government.

Yedo is becoming more quiet every day; most of the Mikado's troops having proceeded to the north. The remainder, reported to number only about three thousand men, occupy the castle gates and some other guard-houses. Robberies are less frequent, probably also because the offices of the large merchants are all closed, and their valuables removed to places of safety; and the common people, to the number of several hundred thousand, have been practically self-governing with perfect success, ever since the total collapse of the old official system.

Among the forty-five thousand disbanded officials before mentioned, there are many who have no private means whatever, and among whom the loss of salary and rice allowances is beginning to be seriously felt.

Without firearms themselves, and while witnessing the superiority of drill and organization of their opponents under the Mikado's flag, a growing feeling now prevails with these people, that foreign adventurers have greatly instructed and aided their enemies, and that to a great extent foreigners of all classes and nationalities are responsible for this unfortunate civil strife. Already the plea has been advanced by them that war between Japanese is simply offering opportunities, of which unscrupulous foreigners may promptly avail themselves to bring ruin and disgrace upon this country. With the present generation of Japanese hatred of foreigners formed part of their earliest education, and though the prejudice is unquestionably not so strong as in the earlier days of our intercourse, and the greatest efforts to disguise the feeling have always been made, particularly by the new or Mikado's government, there is no doubt enough of it is left, so as to respond in many instances to the appeal in favor of union on the only possible basis, that of dislike of foreign nations or apprehensions from their suspected designs, on which all Japanese might unite and few would have the courage to stand aloof.

Within the last few days three cases of great rudeness towards foreigners by Japanese have occurred in this place, and they are now being investigated.

In the early part of December next the rice crop will be harvested and the taxes collected; then, if not before, the relative strength of the contending parties will be practically tested. In proportion as the season advances the feverish excitement seems to increase, and induces probably a stronger exhibition of anti-foreign feeling than might be expected under ordinary circumstances. This feeling principally manifests itself by a studied misconstruction of every act in observance of neutrality by both foreign officials and merchants. Criticisms are freely tendered by the respective partisans on every occasion, and in no single instance that has come to my knowledge could I detect any desire to do justice

to the foreigners, or anything but a suspicion, sometimes quite plainly expressed, of the most unworthy motives on their part.

In the present disturbed state of Japan no efforts of the foreign representatives to allay this anti-foreign feeling or diminish its influence could be successful.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

[From the 8th number of the Naigaishinko.]

*Remonstrance addressed in the 3d month (April, 1868) by the rifle brigade of Choshu (Ki Hei Tai) to Arinugawa Mia, on three subjects.*

That the Emperor himself goes to the Quanto to inflict punishment is not right.

By his departure he will not only cause great anxiety to all people, but everywhere in the whole country, although in profound reverence, all sorts of things—good and bad ones—will be said about him; if the idea of his departure is, therefore, not abandoned very soon, the commencement of a terrible excitement will appear in the country.

If the foreigners are invited to the imperial court, who will be the man, when the time for expulsion has come, to employ his energy for this purpose? Therefore it is not right that the foreigners are admitted to the Dairo.

The government of the empire must be given back to the house of Tokugawa. The princes shall consult with each other on the subject of some abuses, but nothing else ought to be altered.

To this government, (of the Tycoon,) to which the people have been accustomed for more than three hundred years, they still are devoted in fidelity and obedience, even if it were said that the old imperial government was to be reinstituted as in former ages; and if the government offices were filled with Daimios' kugés it would be a vain trouble—the people would never submit to them.

If this state of affairs lasts, the time will come when the princes refuse to obey the orders of the Emperor, and will intrench themselves in their provinces, to the ruin of the country.

Therefore the government ought to be returned immediately to the family of the Tokugawa. If this is not done disorders will arise immediately, and the restoration of peace will become an impossibility.

[From the 36th number of the Naigaishinbun, July 4, 1868.]

*Extract of a letter from Kamigata.*

All the troops of Choshin, stationed at Miaco, have returned to their province, so that at this moment no soldier of Choshin is to be found in that city. There exists a rumor that this is because the Emperor has rejected the three points which Choshin had proposed for his consideration. I have not been able to get hold of the petition containing these three points, but they are said to be the following:

1. The question about Yedo ought to be settled leniently, and the house of Tokugawa reinstalled in its former position.
2. The foreigners ought to be expelled.
3. The offices of Sisho and Kuambaku ought to be filled again by proper persons.

It is said, also, that Tosa and some other princes from Sikokf begin to return home with their troops.

JUNE 10, 1868.

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[Translation.]

[From No. 16 of the Yedo News.]

*Dialogue on the relative strength of the parties.*

A visitor asked me: "Supposing the Tokugawa family to be deprived of its territory, when is the country to enjoy peace again? The ex-Tycoon has set the example of sub-

missiveness to all, and has fulfilled the duties which a subject owes to his sovereign, and strong clans, as Aidzu and Shumai may be, they can have no excuse now for resisting the will of the sovereign."

I replied: "What Daimios will ever resist the will of the sovereign? But there will be some who will brook the usurpations of the western and southern Daimios, and one day or other these latter will be called to account by an armed force. I see no prospect of peace for a long time."

Upon this he observed: "Then all the Daimios will isolate themselves in their own territories, and we shall have a recurrence of the civil wars of 1570–1591, the age of Nobunaga and Taiko Sama. Who is then to restore tranquillity?"

I replied: "That I could not tell. However, the results of the different contests for power which have taken place since the Middle Ages show that Japan has never been united into a whole by any one from the west of Kioto. Just run over in your mind the course of history: Yoritomo was from Inzu; the families of Nita and Ashik-aga both sprang from the province of Shodzuke; Nobunaga and Taiko Sama were born in Owari; while the divine Prince Jyeyasu came from Mikawba. This shows that the luck of the eastern portion of Japan far surpasses that of the western divisions, and it was by virtue of this superiority of good fortune that the military power was established in Kamakura, that the most commanding position, namely, that of Kuanto, was secured, the whole country, as it were, held by the middle, and long-continued tranquillity ensued. The learned Rai Sauyo has shown this most conclusively. Let us try to prognosticate the condition of affairs which will ensue when the Daimios retire to their territories to hold their own against each other. In Kiushin we shall have Higo Hizen and Satsuma striving for the superiority in their part of the country; Tosa will swallow up the whole of Shikoku and become something like Chosokabe was in Taiko Sama's time; Choshin, being the strongest clan in the west of Kioto, will, no doubt, imitate the example of Motonari, the founder of the clan, and easily get the better of Geishin, Inshin, Bizen, and the other clans in that vicinity; Sendai, Shonai, and Yoneyawa will hold Oshin and Dewa among them, as Gamo and Mogami did formerly, and on the north coast they will have Kaga for a watchful and suspicious neighbor.

"The Aidzu clan will be united in its regret at the breaking up of the Tokugawa clan, of which it is a branch, and in its desire to restore it to that state of grandeur to which it was raised by its founder Jyeyasu. The Aidzu clan is distinguished for the determined courage of its two-sworded men, and it will strain every effort to make good its footing in the west. All the clans of Oshin, Dewa, Kuanto, and the north coast being relations or feudatories of Tokugawa, will acknowledge Aidzu as their Suzerain, and relieve him from any fear of treacherous attack. The next step of Aidzu will be to push his authority into Koshin and Shinano; he will then descend the line of the Fujikawa, and issuing on to the Tokaido will find Suruga, Yotomi, Mikawa, the ancient territory of Jyeyasu, ready to enrol themselves under the holyhock banner without questioning either Aidzu's right or the consequences which may befall them. Kishin will be neutral and look after the safety of his frontier, asking advice of neither party, and with good reason, on account of his proximity to the south and west. Probably he will have it in his power to stop the passage of armies from east to west or *vice versa*, for he holds a strong position on the seashore. Echizen, also, will not be at leisure to do more than to look after his own safety. Aidzu will then attack Owari by the Tokaido and Nakasendo, and create an intermediate position to support his further advance. As he proceeds westward the territories of Yodo and Jikamonokami will become the battle-field of the opposing armies. We shall have a repetition of the fight of Seki Gahara, and other engagements without end. This is what seems to me likely to be the result of the present state of things."

My friend remarked: "I am well aware of the dauntless courage and powers of the Aidzu men, but it must be remembered that although the Prince of Aidzu is the descendant of the son of Jyeyasu, by descending into the rank of the Daimios he has lost his claim. Supposing that he now usurps power, and tries to restore the authority inherited by Tokugawa, will the remaining members of that clan make up their minds to join him?"

I replied: "The Prince of Aidzu is well aware of the facts, and if he supports the main line of Tokugawa in the person of Jayasu Kamenosuke, none of its former retainers will refuse to join him; and even if he does not try to uphold the last or the elder branch, we have a precedent in the case of Jyeyasu himself, who traces his descent from a younger branch of the Nitta family, and the feeling of the Kuanto men is such that they would far prefer the services of Aidzu to the rule of the families of the south and west, with whom they are united by no family bonds."

My friends upon this asked: "Then will Aidzu be able to extend his rule over the whole country and re-establish the Shogunate as it existed under the Tokugawa family?"

I replied that, "A hundred years ago this probably would have been the result, but that in the present day its possibility was by no means certain. My reasons for thinking so are, that a government is radically bad in which there are two rulers—one a

nominal sovereign, superior in rank, and the other a great vassal, who holds the power. A man of sense and intelligence would be ashamed to confess to a foreigner that he lived under such a constitution."

My friend observed to me: "If it is as you say, why should we have to wait a long time for the restoration of peace, seeing that the government has reverted to the sovereign, that the plan which the Emperor Godaigo failed in is being carried out, and that the imperial government is laying the foundation of an enduring condition of tranquillity, where does the difficulty lie?"

To this I answered: "An attempt to graft a federal constitution on the feudal system must end in the sovereign becoming a puppet, while the real functions of the government and the command of the military force will fall into the hands of the stronger Daimios. Then every one will seek to carry out his own policy, and the condition of affairs will resemble that in the time of the Ashikaga family, when its power was usurped by Yamana and Hosokawa. I hear that the Prince of Choshin has resigned his office and returned to his territories, which proves what I have been saying.

"My belief is that the country will be split up, and that we shall not see it quiet again until some man of genius arises who shall abolish the feudal system, unite the country into a single whole, support the imperial government instead of looking after his own interests, and establish a deliberative assembly on a wide basis."

My friend said: "Many clans are providing themselves with men-of-war, which bring the most distant places together and annihilate, as it were, both space and time. The movements of troops are, therefore, capable of being carried out with great quickness and ease, and of being stopped in the same manner. Do you not agree with me?"

I replied: "No. If one Daimio possesses war steamers, so does his opponent. I do not wish to make invidious comparisons, but I cannot help thinking that the safety of the Daimios bordering on the Island sea will depend in a great measure on the geographical position of each. What we may be certain will greatly affect politics is, that foreign trade will center in our part of the country and desert the west. The most important staples we have are raw silk and tea, both of which are produced in large quantities in the northern and eastern provinces of Japan, and we may feel sure of securing the profits of the export trade. This effect will exercise a good deal of influence upon the relative strength of parties.

"If, however, the great men of both parties isolate themselves severally in the east and west, and make the central portion of the country the battle-ground of their rival ambitions, they will be the ruin of Japan. Even a great country like the United States is said to have declined in power, as well as in honesty and refinement, since the civil war, which lasted for five years; and I am afraid that the intestine strife going on among ourselves is preparing the foundation for acts of usurpation on the part of powerful European nations. If brothers quarrel in a family, destroy the fences and break down the doors, they will leave open a road by which thieves may find an easy entrance.

"It should be the first object of all patriotic and loyal subjects to bring the whole country into harmony, and to concentrate the national strength, so that Japan may take her stand among the nations of the earth, and assert the national dignity."

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[Translation from No. 27 of the Yedo Home and Foreign News.]

Although the rule of our most revered sovereign, his Majesty the Mikado, and the wise gods over Japan is as eternal as the heavens and the earth, in the middle ages the true principles of government were lost sight of, and the Mikado's authority becoming gradually weakened during a succession of civil wars, the supreme power passed at length into the hands of the military class. Subsequently, in the end of the Ashikaka dynasty, disruption and war reached their height, and the whole nation forgot the respect due to his Majesty the Mikado.

Then arose Jyeyasu, gifted by Heaven with wisdom and courage, who, after undergoing the greatest hardships and fighting many battles, put an end to civil strife, and restored the observance of rectitude. He revived the authority of the Mikado, rescued the nation from misery, and asserted his power over all the Daimios of the empire in such a manner that the country once more enjoyed tranquillity; and a period of three centuries elapsed without the occurrence of civil war.

How great his services! How grand his virtues! Thus it is evident that the reversion of the supreme power in this country to the Tokugawa family was the gift of Heaven and man. It was not privately bestowed by the Mikado, nor was it usurped by the Shogun.

The question before us is, from what motives did our prince, the late Taishogun, abdicate the office of Shogun, which he had inherited from his ancestors, and restore the supreme power to the imperial court? Shall his act be called a want of filial piety or fidelity towards the spirits of his ancestors now on high?

The eighty thousand generals and warriors of the Tokugawa family suspected his motives, and were unable to account for his action. I beg permission to attempt an explanation.

When Soshogu had reduced the empire to tranquillity, he devoted a great deal of attention to the encouragement of learning. Education, however, did not make any great advance. It was reserved for his descendant Gengiko of Mito to make great improvements in this direction, and to compile the Dainihonshi,* which may be styled "the spring and autumn annals" of our country. Thence forward right principles and the duties of relative ranks became well understood throughout Japan. In the heavens there are not two suns, and on earth there cannot be two sovereigns. According to the constitution of our country since the Kama Kura age, there has been a Shogun subordinate to the Mikado, who conducted the government of the country and possessed the supreme authority. Thus there existed as it were two sovereigns in one country, two heads to one man—an inconvenient condition of things, under which a good national system was impossible. Of late years also intercourse with foreign countries has been gradually increasing; the learning of the West has come into contact with the Chinese philosophy of the East, and the different systems of the world are generally tending towards unity. In the face of such events it became impossible to preserve in Japan an inconvenient national system which may be likened to a man with two heads.

This principle was not recognizable by ordinary persons like ourselves; it was reserved for the wise insight of our prince, the late Taishogun, to discover it. The object he had, therefore, in forming the resolution of restoring to the imperial court that governmental power which he inherited as the gift of God from his ancestors was no other than this: namely, the conversion of the divine provinces into a country with one sovereign and one head, the preservation of her happiness and integrity for all ages, and enabling her to rank with the powerful states beyond our seas.

It was not only that our prince, the late Taishogun, with a patriotic Japanese soul —a soul perfectly just, upright, and free from all selfish aims—displayed the profoundest truth and loyalty towards his Majesty the late Emperor Komei; but he also manifested the deepest benevolence and goodness towards the countless population of the empire—such benevolence as never can or will be surpassed. Therefore his conduct towards the founder of the Tokugawa family was in fact filial piety and fidelity.

In the times of remote antiquity, when the heavenly grandson came down to this earth, the great god of Idzumo, the ruler of the eight great provinces, in his obedience to his order, surrendered this country into his hands. I think it is not irreverent to say that our prince in restoring the government to the Mikado, performed an act much nobler than that of Okuninushi, (*i. e.*, the god of Idzumo.) The latter has enjoyed the offerings of the Tenshi for a thousand years. The former, in consequence of the differences of opinion among his followers, and their eagerness to be first in the fray, has offended the wrath of his Majesty, the still youthful Mikado, and an envoy has come eastward to punish him. There is no want among us of men like Take-mi-na-kata of old. Some proposed that the forces of the East should at once march westward and repeat the exploits of the period, Shokin;† others proposed to meet our enemies in Sumga and Totomi, and to attack their nest by means of war vessels. These plans were noisily debated, and there were many who urged our prince to action, entirely disregarding their own lives. But he swerved not from his original purpose, from his true wish to do honor to his sovereign. Not one hairbreadth did he move, but was firm as the rocky base of the peak of Fuji, while his grief for his country was profounder than the sea of Ise. His fear was lest the national disturbances should increase and grow, and that foreign insolence would take advantage of the opportunity. He therefore adopted the motives of Kinshojo for his model, and continued in perfect obedience and submissiveness, admonishing us that those who resisted the imperial army would be applying a sword to his own body. He then evacuated the castle of Yedo, which is the very keystone of Kuanto; surrendered the arms and vessels, which are the very sinews of the naval and military forces, and retiring to the remote seclusion of Mito, now awaits there on his knees the decision of the Emperor. How profound and all prevading his delicacy; how great his suffering!

Besides, unfortunately, the imperial army does not resemble the soldiers of Yakemikaequehifutsunushi. The subject is made to rebel against his lord; the lesser families to attack those from which they sprung; younger brothers to make war on their elder brothers.

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* This great work is in the ancient Chinese historical style, and extends to two hundred and fifty volumes. It was compiled by order of Munetaka, the fifth Prince of Mito, and presented by him in 1720 to the then Shogun Yoshimune, who was afterwards canonized under the name of Yu-tok-in. The Dainihonshi is regarded by the Japanese as the standard work on the history of their country.

† This period, from 1219–1221, witnessed an attempt to restore the imperial authority on the retired Mikado Gotoba, who in 1221 raised a large army and marched against Hojo Yoshitoki, the Main du Palais of the Shoguns. The Kioto forces were entirely routed, and the reigning Mikado Jiunsoku and his three predecessors were banished by Yoshitoki to different parts of Japan.

What shall we say of this inversion and destruction of ordinary bonds of society? In an age like the present, when learning flourishes so highly, and right principles are so well understood, and when the ancient monarchical system is being restored, and the government remodeled, such extraordinary actions fill us with astonishment, and almost leave us without words to vent our feelings.

The reason why we have borne that which is truly almost impossible to bear; why we have been abject, and humble, and obediently submissive, is no other than this: We have thoroughly appreciated the submissive and patriotic feelings which animate the Japanese soul of our prince; and we wish to forget our families for the sake of our country, and to disregard our private interests for the sake of that which is noble and disinterested. We daily and nightly conjure the heavens above us, and the wise gods, to cause the truth and honesty of our prince to be at once recognized by Heaven and earth, and to be approved by the allwise gods; and we pray that he may enjoy the favors and rewards of the wise gods, and of his Majesty the Mikado, who rules over Japan.

TSUDA SHINICHIN,
SANEMICHI.

JUNE, 1868.

With tears of blood, respectfully waiting.

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*Proclamation to the Ohometseke and Ometske on the fifth day of the sixth month, (July 24, 1868.)*

The territorial limits having been settled, the number of followers will necessarily have to be reduced; and to our great regret we are compelled to notify our followers, that from this sixth month they must no longer expect to receive either money or rice allowances: they should, therefore, at once provide for themselves.

The heads of departments will promptly inquire whether their subordinates wish to enter the service of the imperial government, or leave their present service, and report accordingly.

NOTE.—This applies equally to those who have estates.

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[Translated from the sixteenth number of the Kioto Gazette.]

PAPER MONEY.

To create a sure basis for the prosperity of the realm, on the occasion of the reformation of the imperial government, after mature consideration the issue of paper money has been decreed; and according to his Majesty's orders this paper money shall pass current in the whole empire from the present year Tatz' to the next year Tatz', *i. e.*, for thirteen years, that by it the poverty which reigns everywhere in the country may be alleviated. The rules to be observed are mentioned below.

The day from which it shall be put into circulation shall be published by the proper authorities to all people, even down to the lowest class.

"Fourth Intercalary month, (twenty-second May to nineteenth June.)

TAIROKWAN.

As the introduction of paper money has been decreed, all Daimios shall be able to obtain loans according to their incomes, so that for every ten thousand kokus they may get ten thousand rios. They will have to lay their wishes, with regard to this, before the proper authorities.

With regard to the repayment they will be obliged to pay every year, for thirteen years, a tenth of the sum lent; payment to be made in notes, so that at the end of the next year Tatz', the repayments will have been effected.

The princes shall bear in mind that according to the intentions of the Emperor, through the paper money lent to them, a sure basis shall be created for the prosperity of the country. They shall use it, therefore, to assist the industry as much as possible, and do good to their countries. It cannot be allowed that the governments of the princes use their notes for unlawful purposes.

To the merchants of Kioto and in Sitz', (Osaka,) and of the neighboring rural districts, which desire to contract such loans, notes shall be given in accordance with the amount of business they transact after they have expressed their wishes to the officers issuing the notes.

To the inhabitants of the towns and villages of the Saibansho districts in the whole country, and in the territories of the princes, at their demand, after their fortune has been assessed, loans shall be given for the carrying on of their business. With regard to the repayment they shall pay every year a convenient part of the sum with interest.

Everywhere, in the whole country, the same principles shall be observed as with the merchants at Kioto and Osacca.

Such notes as are yearly repaid shall be destroyed in the Kaikeikyoku.

From the money lent this year between the first and seven months exclusive, ten per cent. shall be returned at the end of this year. From the money lent between the seventh and twelfth months, only five per cent.

In this manner, according to the will and decision of the Emperor, a substitute shall be created for the wanting coins. Nobody, therefore, ought to blame this measure. As, however, the loans are made in notes and to be repaid in notes, no exchange (against coin) shall take place.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 83.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 15, 1868.

SIR: With reference to my dispatch No. 67, dated the 8th ultimo, I have now the honor to transmit inclosure No. 1, copy of a letter to me from our consul at Nagasaki, with four sub-inclosures, being copy of the correspondence between the consuls and the local authorities at that port, on the subject of the native Christians and their treatment. This correspondence reached me only a few days ago. I had already informed you that four thousand and ten native Christians had been ordered to be punished by banishment and hard labor, and you will now perceive that this judgment has actually been executed on one hundred and twenty of them.

I am informed that about sixteen of these poor people had been sentenced to death in accordance with the terms of the law, but were reprieved in consequence of the representations made to the government or the authorities by the foreign representatives, and I have also reason to believe that the delay in the execution of the sentence upon the remainder is mainly due to the same influence.

Popular prejudice and opinion is strongly against the Christian religion, nor could it well be otherwise. The people are ignorant and superstitious, wedded to their ancient religious observances, and more or less under the influence or control of a host of priests, numbering, including the married ones and their families, monks and nuns, over five hundred thousand people; all of whom are living in a state next to absolute idleness, and dependent upon the continuance of ignorance among the people for their support.

I beg to submit that under the present circumstances as reported in my several dispatches, it would not be prudent to do more than has been done already.

My colleagues and myself are of opinion that our duty for the present should not go beyond urging the authorities persistently, in a firm but friendly manner, to adopt a more humane policy, and to revise the laws in a more liberal sense.

I transmit inclosure No. 2, translation of three documents relating to Christianity, and No. 3, translation of a pamphlet on the same subject by a Japanese scholar, who claims to have read the Bible from beginning to end. This pamphlet is now having a very extensive circulation in this country. For its better appreciation I transmit inclosure No. 4, memorandum of the five virtues and the five social relations therein referred to, as being this scholar's standard for comparison.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Mangum to Mr. Van Valkenburgh.*

CONSULATE OF THE UNITED STATES,
*Nagasaki July* 15, 1868.

SIR: I have the honor to inclose herewith copies of correspondence between the treaty power consuls at Nagasaki (jointly) and the Japanese authorities relative to the native Christians. These embrace four inclosures, to wit: Inclosure No. 1, first letter of the consuls to the governor general of Kinsin; inclosure No. 2, reply to said letter; inclosure No. 3, reply of the consuls to inclosure No. 2; No. 4, joint letter of the consuls to the governor general relative to the carrying away from Nagasaki a large number of native Christians in a Japanese steamer. To this last letter no reply has been received as yet, but it is rumored that these Christians to the number of one hundred and twenty men have been separated from their families and are to be distributed in different parts of the empire in small parties, so as to keep them from all former associations, and thereby induce them to renounce their faith. As far as we have been able to learn, no physical torture is intended. Trusting that my action in this matter will meet with your approval,

I have the honor to be, sir, your most obedient servant,

WILLIE P. MANGUM,
*United States Consul.*

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident in Japan, Yokohama.*

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NAGASAKI, *May* 12, 1868.

SIR: From different sources we have been informed that the Japanese government intends a general persecution of those Japanese subjects who have embraced Christianity.

We have not the least intention to interfere with the rights which the Japanese government have to exercise over their subjects, but think it our duty in the name of humanity, and in the most friendly spirit towards the Japanese government, to make earnest remonstrances against a step which certainly would prevent all civilized nations to regard Japan as heretofore, namely, a civilized nation.

The article VIII of the treaty, stating that neither Japanese nor foreigners should do anything that may be calculated to excite religious animosity, and that the Japanese government had abolished the practice of trampling on religious emblems, shows that the question was taken in serious consideration at the time when the treaty was made.

We hope that the new government will not retrograde doing what has been done centuries ago, at a time when the highest authorities in Japan declare their adhesion to progress.

Again we beg to state that this letter is merely written in a feeling of friendship for the Japanese government, and in the name of humanity, being most anxious to have these reports officially contradicted, and trust they may prove to be untrue. We will feel sincerely obliged by your favoring us at your earliest convenience with a reply.

We have, &c.

[Signed by all the consuls.]

His Excellency the GOVERNOR GENERAL *of Kinsin.*

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[Translation.]

NAGASAKI, *May* 31, 1868.

GENTLEMEN: We beg to acknowledge the receipt of your dispatch of the 12th instant, with reference to reports which have reached you of severe punishments about to be inflicted on those Japanese subjects who have embraced the Christian faith.

We respect the humane feelings which dictated this letter, and we pity those perverse minded Japanese subjects of the lower class, who, in the face of an old established Japanese law, have committed the crime of apostatizing to a strange religion. The practice of this is strictly prohibited, but we shall have no alternative but to punish them according to Japanese law, if our repeated remonstrances do not cause them immediately to repent and retract their errors. We further state the eighth article of the treaty provides that there shall be no religious animosity between Japanese and foreigners, and that the practice of trampling on religious emblems had been abolished by the Japanese government. It is true there should be no animosity with regard to the respective religions professed by each country, and both foreigners and Japanese are at liberty to follow their own. But the abolition of the trampling on religious emblems had no reference to your country religion.

You express a hope that the new government will not revert to obsolete practices at a time when the highest authorities have declared their adhesion to progress, and this gives us great pleasure. It shall be the earnest endeavor of the new government to avoid any retrograde step, but as we wish to maintain our laws, it is impossible to be remiss, or in case of persons who have disregarded when strict prohibitions contained in them, and the delay hitherto accorded has been from motives of humanity only.

In the last paragraph of your dispatch you ask whether the reports you have heard were true or not. We hope you will clearly understand our answer from what has been said above.

We have the, &c.

By order of the governor general of Kinshui:

MACHIDA MIMBU.
SASAKI SANSHIO.
SOUNNA SOSHICHI.

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NAGASAKI, *June* 4, 1868.

SIR: The undersigned, consuls of the treaty powers in Nagasaki, have the honor to acknowledge receipt of your excellency's dispatch of the 10th of the 4th month, (the 21st of May,) in reply to our communication of the 12th ultimo.

We are very glad to see your excellency has understood the friendly meaning of our letter of the 12th ultimo, and as we have forwarded a copy of it to our respective ministers, we will also send them a copy of your excellency's reply, and we will feel obliged if your excellency will defer taking any immediate measures against those Japanese subjects who have embraced the Christian religion, in order that the ministers may have the opportunity of conferring with the high authorities in Kioto on the subject, and interceding on this behalf.

We have the honor to be, with compliments,

[Signed by all the Consuls.]

His Excellency the GOVERNOR GENERAL *of Kinshin.*

JULY 11, 1868.

SIR: We, the undersigned consuls of the treaty powers, resident at Nagasaki, have the honor to communicate to your excellency that we have been informed a large number of Christians have been arrested and sent away from Nagasaki on board of a Japanese steamer. From our previous communication addressed to your excellency, dated the 12th of May and 4th of June, you will have observed that we take a lively interest in the fate of these poor Christians; we would therefore feel obliged by your informing us the place of their destination, and what may be the intention of the Japanese government respecting them; likewise those that are still remaining at Urakami. Our motive in making these inquiries is not, as we have stated before, to interfere in the internal affairs of the country, but merely to point in the most friendly way that any outrage against humanity committed against innocent persons only because they profess the Christian faith cannot but injure the reputation of the Japanese government in the eyes of the civilized world.

We therefore venture to hope that you will give due consideration to the measures that you may deem fit to adopt regarding these native Christians.

We have, &c., with respect and consideration.

[Signed by the treaty consuls.]

His Excellency the GOVERNOR GENERAL *of Kinshin.*

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*Particulars about the religion of Jesus.*

The ancient philosopher Kumazawa Banzan, in discoursing upon the injurious tendency of the evil religion of western countries, says that this religion, by taking advantage of peoples' poverty, and the tendency of the human mind to go astray, may do harm to the state; besides this, Aizawa Tsunezo, a retainer of Mito, afterwards affirmed that the origin of the evil doctrine of western countries sprung from the uncivilized customs of the barbarians; it is a narrow-minded, foolish and false doctrine. Well, then, Spain, Portugal, France, Russia, and England, as also various other countries where people profess this religion, having during the past two hundred years gradually increased in size, conquered various countries, and braving the fury of the waves, entered into commercial relations with the countries of the foreign seas. After having maturely considered the weak and the strong side of the political condition of those countries, they adopted a suitable line of policy.

Odakô and Toyatomi, fully aware of the falseness of their hearts, prohibited this

evil set of men and drove them out of the country. Toshogu made still stricter laws, and the remnants of the sect were entirely destroyed during the time of Daiyuko. Let us, however, proceed to facts.

During the past summer the population of Urakami in the neighborhood of Nagasaki, availing themselves of the opportunity (the weakness of the late Bak-fu) presented, were not only beguiled by that doctrine and led astray by the magic arts practiced, but were also infected by it through gifts of large sums of money. It gradually spread to neighboring villages, until upwards of four thousand men and women were deceived and beguiled. At length some were seized by the governor of Nagasaki and put into prison until this year. His Majesty having been graciously pleased to consult several Daimios as to the course to be pursued in pursuance of his merciful intention of guarding the interests and happiness of the whole nation, decreed that they should be distributed throughout the various provinces. Ah! who, calling himself a Japanese, and knowing this, will not repent and reform his conduct, as also give proofs of a changed heart. By making such a return for the graciousness of a very merciful government, the happiness of not only Japan as a country, but of its inhabitants individually, will be increased.

The questions put to the Daimios by his Majesty and the names of the Daimios intrusted with the meu are now recorded in detail and publicly made known, and we earnestly pray that henceforth there be none who do not understand it and guide themselves accordingly.

NOTES.—Odakó is another name of Nobernaza; Toyotomi is the surname of Taiko Sama; Toshugu, the first Shogoon of the Tokugawa dynasty, he overthrew Toyotomi, and is better known as Iyeyasu Daiyuko, third Shogoon after Toshogu, also called Jyemitsu.

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### PARTICULARS ABOUT NAGASAKI CHRISTIANS.

*Extract from the particulars relating to the seizure of the Christian sect at Yamazato and Urakami, on the 23d day of the sixth month of last year.*

As at present all the inhabitants of Urakami have been instructed in the Roman Catholic (lit. the French Christian) religion, and the attendance of the converts at the "Tenshikwan," (Roman Catholic church,) is daily increasing to an enormous extent; the converts have become very numerous, and their influence is strong enough to break a rock. They neglected their personal affairs and thought of nothing but this sect day and night, and naturally forgot their means of subsistence. Report said that there were already more than a hundred of them. It was no longer possible to pass it over with impunity.

During the rainy and windy night of the 13th of the sixth month, the government officials, Ando Rinnoski, Yatsu Ranshiro and Ongishi Kelsugoro, their subordinate officials, and all the chiefs of the wards, also officers with a detachment of soldiers, armed with swords, lances, and firearms, numbering in all one hundred and seventy men, set off for the place, but as the storm had increased and broken the large bridge, the riflemen passing along the back road branching off at Magomi, entered the place from behind; the others plunged into the river and crossed it without injury, and being divided into parties of ten or twenty men, received orders to cut down anybody opposing them. They all drew their swords and uncovered their lances, then surrounding the village some rushed into the houses and seized a large number of people; others broke open doors, and shouting loudly, bound the people with ropes; some were also drawn from under the floors and seized.

The police behaved in a splendid manner, and the prisoners consisted of seventy-three men and twelve women, making in all eighty-five persons. Just about this time a band of forty-eight, armed, some with bamboo poles, others with hatchets, and whatever they could lay their hands on, appeared at the upper end of the village and came on the scene; the other troops which had come around from Magomi, advanced upon them in flank, and the crowd, apparently finding themselves taken at a disadvantage, fled in disorder on all sides; four of them were seized. During the confusion, however, two of the governor's employés had disappeared, and although a strict search was made they were no where to be found. The next day the report being that they had been killed in front of the mayor's house, men were sent to make inquiries; one was found with his head split open to the ear and his clothes covered with blood; the other, though unable to move, was not mortally wounded. Great praise is due to the employés of the governor for their conduct in this affair.

Leaving half the riflemen and a similar number of spearmen as a guard, the rest returned; Ando Rinnoski, Yatsu Ranshiro and Ongishi Kelsugoro preceding and followed by the eighty-five prisoners, surrounded by the employés of the governor, the spear and swordsmen, and other troops, the jôyokus and chiefs of wards also accompanied them. The men and women were placed in the Tokura street prison and the

troops left to guard the place. Last night, having been withdrawn, presents as per subjoined list were distributed:

Echigo Chijmi—three pieces to Ando Rinnoski.
Two boos to Ando Rinnoski.
Two proceeding items to Yatsu Ranshiro.
Two proceeding items to Ongi Kelsugoro.
Summer dress with crest and five boos to four Joyagus.
Summer dress with crest and five boos to chief of the employés of the governor.
Five boos to the other employé of the governor.
The riflemen were instructed to be on duty at the western government house.

Well, then, having returned, the Shirabiyakus and the rest all proceeded to Urakami On proceeding to make inquiries three men appeared and said that, professing the same religion as the prisoners seized last night, they requested that they might be dealt with in a similar manner as the rest. They plainly expressed a desire to be immediately imprisoned; and having furthermore prayed that if they were not seized the lives of the others, taken last night, might be granted, the judge replied that, although it was perfectly right for them, as votaries of the same religion, to request the same punishment, their language was reprehensible. The fate of those seized last night had not yet been decided, and besides, their language was very reprehensible; but as the various inquiries made before the seizure had not tended to criminate them, he instructed them to depart. Hearing this they all left.

This having been reported to the governor by Ando and the Joyakus, it was considered that, although everything was at present quiet, it was impossible to say what might occur, and that strict watch should therefore be kept, which was accordingly done. While this discussion was going on another report arrived mentioning that one of the prisoners taken last night had fled.

Furthermore, at 10 o'clock a report was sent in that the inhabitants of Urakami having planned a horrible plot, the guard had been unable to resist them and had fled; the rabble had advanced from Kamimachi to Okuyamchi; it was impossible to find out the number of men engaged, but the tumult was very great, as the report stated that old and young of both sexes had hastened to the various temples and thence to the Sakuro street prison, which they had fired, and also that they were advancing upon the governor's official residence. A force was immediately sent against them, headed by Ando, the riflemen, sword, and spearmen, with their weapons ready for action, and clothed with leather coats and with guns given out to them, forming in all a strong force well drawn out.

No information, however, arrived, and there was only a report that the rabble were advancing.

About 10 o'clock all the guards left and tranquillity was restored. The Sakuramachi prison was found to be too small, and an order was given to increase its size before morning. All the carpenters from the various villages were therefore summoned, a fire was lighted for them to work by; the noise of the chisel and spade was very great, the earth re-echoed the noise in a manner wonderful to relate. About six next morning it was completed; the size of the prison was forty-eight feet by thirty-six feet.

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*Copy of a proclamation from the Daijokwan to all the Daimios.*

It has been reported that in Urakami, near Nagasaki, the people have for some years professed the doctrine of Jesus; that having gradually increased in number, the whole place at present believes in this religion; and that this sect now numbers more than three thousand persons. As this is a terrible state of things, the authorities (Saibansho) of Nagasaki have reasoned with them in a friendly manner, but they expressed no contrition.

At present, the supreme government having undergone a change and been renewed, a great misfortune would be caused to the state if this was allowed to increase. As it is impossible to pass this over with impunity for a moment, let the chiefs of this sect be summoned and earnestly entreated. If they at once repent, let them destroy all books and images used by the sect, as a proof of their contrition, and abjure their religion in front of the altars of the gods, (Kamis.) If they do not express penitence, it will be necessary that the chief men be unfailingly executed, and their heads exhibited; furthermore, the others shall be sent to the different provinces to be employed in different ways. Thus the roots will be speedily extracted.

Should in after years convincing proofs of repentance be given, they may be pardoned and permitted to return to their various homes. There is no other way of settling this matter.

As this, however, is a matter which cannot be trifled with, it is ordered that all openly report their opinions upon the subject to the government.

4TH MONTH, 12TH DAY.

[Translation from No. 44 of the Tahugaisinbun—Yedo Home and Foreign News—July 25, 1868.]

*New essay on the protection of the country, in one volume, by the Reverend Folly Pitier.*

We do not know to what province the reverend gentleman belongs. The new essay has lately made its appearance, which we find, on perusal, to be an exposure of the evil religious sects called Protestantism and Roman Catholicism.

We have had many works entitled "Destruction of Evil," or "Expulsion of Evil," but they have been the result of a partial or shallow view of the question, and have only attacked one or two points. It would seem that few persons have mastered the fundamental principles of European doctrine. This pamphlet contains little more than fifteen or sixteen pages; yet the author, who is evidently a learned man, has seized upon all the important points. It is a pamphlet well worthy perusal by every earnest man.

RHODES HOUSE
OXFORD
LIBRARY

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[Translation.]

*New essay on the protection of the country, by the Rev. Folly Pitier.*

There are two volumes—called the Old Testament, in thirty-nine books, and the New Testament, in twenty-seven books—which are venerated in the Protestant religion or sacred writings. Its contents are declared to be the utterances of Shang-ti, (the Lord of Heaven is called Shang-ti, and also the true God,) and not even a single word can be taken from or added to it. In addition to these there are several hundred other volumes, which treat of the scope and design of the Protestant religion; but they are all the offspring of these two; and, although bullock-loads and housefulls of books should be hereafter written on these subjects, they could not develop any doctrines but those contained in the Old and New Testaments.

I have read the whole book—from Genesis, in the Old Testament, to the Revelations by John, in the New Testament. The doctrines of honoring the Lord of Heaven and believing in Jesus, appear to be the foundation of the Protestant religion; but nothing is taught of cultivating one's person, regulating one's family, ordering the state, and tranquillizing the empire.

The fifth of the Ten Commandments of the Lord of Heaven is, "Honor thy father and thy mother." Some tracts have lately been published, entitled "Elements of the five virtues in the Holy Scriptures," and "Elements of the five social relations in the Holy Scriptures," which are made up of texts picked out of different parts of the two Testaments, and twisted so as to bear out the meaning of the title; but they do not contain the correct principles of the human relations. They are merely got up to stave off troublesome opponents, and also, at the same time, to take people in; but they do not represent the real spirit of the Protestant religion.

Some people are led by these books into believing that the Protestant religion is the right way, and many not only go astray themselves, but lead others astray also. I will proceed to show, briefly, the evil and wicked nature of this doctrine.

It is quite true that one of the Ten Commandments directs that honor be given to parents, but as no care is taken to give effect to this injunction by teaching it to the people, we do not find either Abraham, Moses, or Jesus, who are venerated as holy and sage men by the Protestant religion, were celebrated for their filial piety. When Jesus was on the cross, his mother, Maria, and a disciple stood by his side. Jesus, seeing his mother, said to her, "Woman, behold thy son;" and to the disciple, "Behold thy mother." This is quoted in the Yakiaku-bun-nan-ki (record of a rustic guest asking explanations) as an instance of the exceeding filial piety of Jesus; but, after all, it was nothing more than handing his mother over to his disciple, when he himself was about to die, and there was nothing particularly filial about the action. Besides, the doings of Jesus are all contained in the four Gospels; but there is not an atom of filial piety to be found in one of them.

Seeing that the great principle of filial piety, which is the root of all good actions, is thus neglected, we cannot expect to find any traces of loyalty either. There is not one of these so-called wise and holy men who has acted with loyalty towards his lord and master. Besides, there is not a single word about loyalty in the whole of these numerous books and thousands of words of which the two Testaments are composed. The Ten Commandments enjoin honor to parents, but do not enjoin honor to prince and master.

The Protestant religion looks upon princes and parents as merely temporary, and considers the Lord of Heaven to be the real Lord and relation.

He is styled the Emperor of Emperors, (Shang-ti;) the great Noble; the great Prince; Heavenly Father; great Father. We thus see what their ideas of loyalty to prince and of filial piety towards parents are.

The Ten Commandments are comprised in two laws: Honor and love the Lord of Heaven; this contains the first four; and love thy neighbor as thyself; this contains the six last—*vide* Matthew, c. 22; and the true doctrine for youthful learners, page 6.

This sentence, "honor and love the Lord of Heaven," carries within it the inference that one's father and prince are not to be loved and honored.

The "record of a rustic guest asking explanations," therefore, in discussing the Chinese method of salutation by bending the knees, objects to showing honor to prince and parents by bending the knee and bowing the head, and declares that the rules of good manners are satisfied by speaking to prince or father on one knee—for one must not bend both knees or bow the head to one's prince or one's father. Then it objects to ancestral sacrifices, because the remains in the tomb are rotten, and it is a waste of time to bow the knee to them, as they have no knowledge of what goes on about them. Such reverence is profitless, and it laughs at such practices as being the height of folly.

This "love thy neighbor as thyself," is the same as Mih-peih's "universal love," and does not require any more respect or love to be shown towards one's prince or one's father than to any other person. Such being the case, supposing a man to ignore his father or prince; or to put the extreme case—if a man murders his prince or his father and believes in the Lord of Heaven and in Jesus, he will go to heaven; while even though a man perform his duty towards his prince and his father, if he do not believe in Jesus, he must go to hell.

Therefore, Wen-Wang and Chou-Kung (of the Chou dynasty) and Confucius must have gone to hell, according to * * * (name of book or author.)

This is because the Lord of Heaven is made out to be our real father, who begot us, and our real prince, who rules us; because all the men in the world are brothers, and our princes and our fathers are our brethren. Jesus said: "But be not ye called Rabbi; for one is your master, even Jesus Christ; and ye are all brethren, and call no man your father, for one is your father, which is the Lord of Heaven."

Thus the Ten Commandments consist of two laws, "Honor and love the Lord of Heaven," and "Love thy neighbor as thyself." Respect to parents comes under that universal love which is meant by "love thy neighbor as thyself."

Therefore, although the expression "honor thy father and thy mother" exists, it does not urge the practice of filial piety. Jesus said: "He who loves father or mother more than me is not worthy of me." In discussing this question in the dialogue on the Christian religion Jesus is made first and of greater importance, and parents last and of less importance. When the great principles of loyalty and filial piety are thus neglected and the five virtues thus destroyed, how can one expect perfection in the social relations? In the "Mirror of the way to heaven" the five social relations are said to be insufficient, and another relation, that of heaven and man, is set up as the chief of all the others, as being of the highest importance. The object is to destroy the five relations and to substitute that of heaven and man for them all.

The Lord of Heaven is the Lord of all countries and the Father of all men; he is, therefore, the Great Prince and Great Father. All difference between high and low among men is done away with, and this is because the single relation of heaven and man is made to take the place of the five relations. Under these circumstances little love and honor are shown towards prince and father, and when they are despised it is impossible that there should be any loyalty or filial piety.

It is no wonder that there should be no loyal or filial men among the Protestant fellows. In discussing the question of filial piety, which they rarely do, they say that the child's duty is fulfilled by his supporting his parents as long as they are alive and burying them when they die. The father of one of Jesus' disciples having died he asked permission to go home and bury him. Jesus would not permit it. The "dialogue" makes the father to be of less importance than Jesus. Not only do they declare sacrifices to the dead to be useless, but they declare it to be a serious crime in the sight of the Lord of Heaven. The "Refutation of the practice of sacrificing to the dead," and the "Record of a rustic guest asking explanations," speak in this way of the Chinese sacrifices to those gone on a long journey. "As far as I have seen, the professors of Protestantism have very little feeling of loyalty or filial piety; even when the anniversary of their death arrives they never think of him."

The Protestant religion, in this way, completely does away with the rites of sacrifice to the gods, and the filial piety, which sacrifices to one's ancestors who have gone on the long journey.

Thus propriety and goodness are destroyed, and the virtue of the people does not resume its proper excellence; the gods become of no account; ancestors become objects of contempt, princes are disregarded, and wise and holy men are treated like fools. Not only is this religion useless for the cultivation of the person, the regulation of the family, the ordering of the state, and the tranquilization of the empire, but it destroys the social relations and injures the state. How can a word of it be allowed to enter a country where propriety and virtue and a well-ordered government exist?

It objects strongly to the worship of graven images. The second commandment says: "Thou shalt not worship any graven images." There are two books called

"Reasons for not worshipping graven images," and "Argument against the worship of graven images," which attack the practice with great violence, besides passages in many other books which condemn it. Should the Protestant religion spread in Japan, I fear the consequences will be the complete destruction of the Shrine of Isé and Hachiman, where the bodies of the Emperor's ancestors repose, of all the sacred images of the gods, and the tablets of our forefathers. Protestant churches will be built, and only the Lord of Heaven and Jesus be worshipped. Laws which have remained in force from the earliest ages will be abolished, and the imperial line, which has lasted for the last ten thousand generations, will be polluted. Since the early ages of Japan rebels have often risen, but none has hitherto dared to aim at the imperial line, or to attempt to seize the throne. This is because most fortunately the honored line, surpassing the dynasties of all other countries, has been completely continuous, and because no man, however famous, or however popular, could ever tread the steps of the throne unless he was one of this line. The Protestant religion makes Adam and Eve to have been the first human beings, and declares that all humankind throughout the world are of their blood. Therefore, however many of hundreds of thousands of millions of human beings there may be, they are all brethren of the same blood, and there is no difference between high and low. Adam's tenth descendant was Noah. One of Noah's three sons, called Shem, had a son who went eastward; this man is the ancestor of the people of Asia. So the Japanese are all said to be the descendants of Shem. If we allow our countrymen to become corrupted by this abominable religion, it is to be feared lest the disposition which venerates the imperial line should disappear, and traitors arise who would aim at the throne for themselves. This is what I have feared and grieved over for years. I humbly pray the princes, nobles, and great officers to speak to the wise and learned of the three systems—(Shintoist, Buddhist, Confucianist)—to rigidly prohibit this religion while our people are not yet deeply affected with Protestantism; to expel these fellows, to prevent the divine princes from being polluted by the stinking wind, to prevent this necromantic doctrine from throwing the right system into confusion, and thus insure to the people safety, under the shadow of the imperial favor.

Represented with tears.

This pamphlet merely attempts to show briefly that Protestantism is an evil religion, which interferes with the social relations of man, and is injurious to the state. Protestantism and Catholicism are different sects, who are constantly quarreling and abusing each other; sometimes they have even come to blows. However, they spring both from the same origin, venerating the Lord of Heaven, believing in Jesus, attacking Buddhism and the religion of the gods, and disregarding the claims of prince and parent are fundamental principles equally in both; the only difference between them lies in unimportant points, such as the worship of images, so that it is impossible to distinguish the one as good and the other as evil; it is unnecessary to prove that they are both evil religions.

The origin of the separation into two sects is as follows: About three hundred years after the birth of Christ there was a king of Rome called Constantine. Originally he was a worshipper of graven images, but became a convert to Christianity, after which he combined the worship of images and of Jesus. The religion of the Lord of Heaven was the name given to this religion. The other sect, which only worships Jesus, is called the Jesus doctrine. This is the origin of the division. The Jesus fanatics maintain that the Catholic religion is a bad one, which must not be confused with theirs, which is good; that Japanese do not yet recognize the difference; if they did, they would believe the Protestantism. Some of our countrymen, misled by this talk, say that the Roman Catholic religion is injurious to the state, but that Protestantism, being a good system, is of service to the cause of government and religion. The two doctrines, though slightly different, are foxes of the same hole. In point of disturbing men's minds, and endangering the state, they are one and the same.

I only remark here briefly on the danger to the state which is caused by Protestantism; full particulars will be found in the "Criticism of Jesus."

The evil nature of Protestantism being thus apparent, the reader may judge of the equally evil nature of Roman Catholicism without my enlarging on the subject.

AUGUST 7, 1868.

### THE FIVE VIRTUES.

1. Jni—Benevolence.
2. Gi—Righteousness.
3. Rei—Politeness.
4. Tshi—Wisdom.
5. Shin—Truthfulness.

THE FIVE SOCIAL RELATIONS.

1. Kum-Shing—Master and servant; lord and subject.
2. Fu-Shi—Filial piety. (As understood in China, father and child; as understood in Japan, parent and child.)
3. Fie-Fie—Husband and wife.
4. Ké-Té—Brotherly love. This is understood in Japan to apply equally to sisters.
5. Hoyn—Friendship.

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*Mr. R. B. Van Valkenburgh to Mr. Seward.*

No. 84.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 19, 1868.

SIR: I have the honor to transmit herewith No. 1, copy of a letter received by me from Higashi Kuze Chinjio, minister of foreign affairs, informing me of his desire to revise the duty on tea and silk, as provided in the second clause of the second article of the convention of Yedo.

I transmit No. 2, copy of my reply.

Together with my colleagues, I am now engaged in collecting information from our respective merchants, so as to fully prepare ourselves to take this matter into consideration.

As far as I am able to judge, I feel confident that such a revision is not demanded by our interests. The Japanese authorities will most probably desire an increase of the duty on these important staple articles. The merchants, on the other hand, will not only object to this, but may possibly desire that the duties shall be still further lowered. With the duty on silk, (raw,) American interests have no such immediate concern as with tea, which is principally exported to the United States.

The export duty on this article is at present three and a half boos on one hundred caddies, or one hundred and thirty-three English pounds, and at the most unfavorable rate of Mexican dollars, it scarcely exceeds one cent per pound.

As soon as I shall have arrived at a result with my colleagues on the subject, I shall not fail to submit it to you for such instructions as you shall deem necessary.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

29TH DAY, 6TH MONTH, 4TH YEAR, KEIOW,
*(August* 17, 1868.)

I have the honor to call your excellency's attention to Article II of the convention concluded on the 25th June, 1866:

"Two years, however, after the signing of the present convention, any of the contracting parties, on giving six months' notice to the others, may claim a readjustment of the duties on tea and silk on the basis of five per cent. on the average value of these articles during the three years last preceding."

The said period of two years having expired, I beg to request you to meet with the representatives of treaty powers about the readjustment of the duties on tea and silk.

I shall therefore be obliged if your excellency will inform me of the date of this meeting, after agreement with your excellency's colleagues.

With respect and consideration,

HIGASHI KUZE CHINJIO.

His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of United States of America in Japan.*

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LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, August* 18, 1868.

I have the honor to acknowledge the receipt of your excellency's letter of yesterday, giving notice that in six months from that date you desire to meet the representatives of the treaty powers for the purpose of consulting in regard to the readjustment of the duties on tea and silk, pursuant to the provisions of Article II of the convention concluded on the 25th June, 1866.

During the time which will intervene, I shall endeavor to procure such information in regard to the question, and instructions from my government, as will enable me to confer with you upon this subject.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident of the United States in Japan.*

His Excellency HIGASHI KUZE CHINJIO.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 85.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 20, 1868.

SIR: In continuation of my dispatch No. 80, of the 13th instant, I have the honor to inform you that the intelligence reported in my dispatches No. 61 and 68 of this series, in regard to the Miya Sama, has again come in this day from sources which have hitherto proved reliable. This high dignitary is now said to have formally entered upon the duties of Mikado, taking the Haguro Mountain temples for the residence of himself and court.

The functions of a Mikado have always been to intercede with the gods on behalf of the people and their wants; and the government of this country, the chief executive authority, was hereditarily vested in the Tokugawa dynasty, with the title of Shogoon or Tycoon. No supreme legislative authority existed, it being supposed that the law of Gongen Sama was quite sufficient for all time to come, and it was only on extraordinary occasions that the Mikado was consulted.

The Mikado at Kioto, by abolishing the Tycoonate and assuming the government of this country, appears to have acted in defiance of ancient customs, and from the point of view of many Japanese of rank and of even a majority of the officers of his own court to have usurped supreme authority both legislative and executive. It may be taken for granted that the Miya Sama or new Mikado would not have assumed this exalted dignity unless such an important step could be justified on legal ground, though expediency will probably prove to have been his principal motive.

The humbler classes in the country and on the seaboard are very superstitious, and a spiritual chief was undoubtedly required in the north, so as to insure the general belief that they are not forsaken by their gods, which they would deem a great calamity, and certainly render them less fit to act the part required from them by their chiefs in the great struggle that is evidently approaching.

When the crop of silk-worm eggs is good it is held to be a fair indication of a large crop, not only of mulberry leaves and silk but also of rice.

The crop of silk-worm eggs in the north has been unusually good this year; the prospects of the rice crop therefore are excellent, and the Miya Sama or new Mikado, who probably bided his time, has now entered upon his functions with an immense prestige for power and benevolence.

His removal to the north would appear to have been a master stroke on the part of the Tokugawa chief, as his presence consolidated the great northern coalition, and by allaying superstitious fears among the people more than doubled its power.

The history of Japan offers two precedents of the coexistence of two Mikados—on the latter occasion, for a period of nearly ninety years. With the establishment of a hereditary Shogoonate some two hundred and sixty years ago, this division in the supreme spiritual authority was supposed to have been rendered impossible forever. It may safely be assumed, therefore, that nothing but absolute necessity and the good of his country could have induced the Miya Sama to take the important step above mentioned. Ever since the commencement of the present civil strife, he took an active part in favor of the late Tycoon, with whom he has always been on the most friendly terms.

Instead of one Tycoon Japan now has two Mikados. While the one at Kioto declared to assume the reins of government, the new Mikado of the north, I am informed, is not likely to follow that example; and if he adheres to that resolution there is every reason to believe that this self-denial will insure him many followers, thus greatly increase his influence and enhance his importance.

In the eleven provinces, the Tokugawa domains, many Daimios and noblemen of this great clan declared in favor of the (Kioto) Mikado's government. As soon as a chief made such a declaration he was at once ordered to furnish proof of his loyalty by joining the forces engaged against the northern Daimios, and immediately on his reporting himself in camp he was ordered to the front. As my informant observes: "Only one-half of those chiefs remained faithful to Tokugawa or the late Tycoon, and those are by far the most respectable portion, though not the most powerful perhaps. Those who, in these trying times, could betray their master, are quite likely to betray their new friends, with whom they have in fact no affinity, and not even a language in common"—the dialect in the several parts of Japan differing to such an extent.

The wisdom of the late Tycoon in not taking up arms himself for the defense of his undoubted rights is now well proven. The enemies of the Shogoonate are held together by the cohesive power of plunder, and the majority of its retainers, of high and low degree, are actuated by no better motives.

Since the fight at the temple of Wuyeno, in Yedo, about eighty of the Tokugawa Shogitai, or volunteers, have been successively captured and beheaded. Several of these men had family relations arrested at the same time, and the criminal code of Japan was mercilessly applied in all cases. I regret to have to write it, but no allowance was made for age or sex; the relations had to share the fate of these men; the family tablet showing the pedigree was first destroyed, and then those unfortunates, men and women, old and young, even children, were executed or murdered.

Incredible as it may appear, I am positively assured of the truth of this information, and I feel no longer at liberty to doubt it. I can only add, that no prisoners are made on either side; it is war *à outrance*.

The consciousness that the contempt of foreign nations is sure to follow such horrible practices will probably be the means of eventually substituting a milder criminal code for the barbarous ancient laws now in force. Fortunately the despotism of the laws is losing strength, owing to the absence of those two-sworded men who used to carry them out, and who are now either fighting each other or remain passive in abject neutrality. Never, I trust, can these laws regain their lost prestige, and the present convulsion, instead of being fraught with danger to the independence of the people, as they imagine, will undoubtedly secure for them, in the creation of a middle class, the first gleam of real liberty, without which their independence, so called, is a sham, and no more.

Whoever may be the next ruler of a united Japan, I feel confident, will profit by experience, and base the policy of this country upon the support of the people instead of the two-sworded class. He will have to choose between producers and consumers, and the choice cannot be difficult. And when such a policy shall have been adopted, it may be expected that a healthier foreign intercourse will be one of the results.

The horrible practices described appropriately illustrate under what immense difficulties those often labor whose duty it is to cultivate friendly relations with the governing classes of Japan.

I look forward, however, with confidence to the future, and wish I could only look with some degree of certainty to the time when this country shall have returned to peace; that time I apprehend is quite remote; the feelings of the combatants are overwrought and intensely bitter, and compromise is apparently unattainable.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 86.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 24, 1868.

SIR: Several reports have reached me since writing my dispatch, No. 85, of the 20th instant, all confirming the establishment of a Mikadoship in the north. Reports have also been received during the last three days of a battle having been fought between the contending parties, in which the victory was claimed for the northern coalition. There is no doubt that numbers of wounded have arrived in Yedo, and that all the men that can possibly be spared are being sent from there to reinforce the troops fighting against the northern Daimios.

The intelligence this morning received by me, and in which I am inclined to place confidence, is to the effect that no battle but a series of engagements occurred, that numbers were killed and wounded on both sides, but that no decisive result has been attained. In the province of Etshingo, on the west coast, fighting takes place daily; occasionally some castle is taken and then retaken; but that the largest portion of that province has been reconquered by the northern Daimios and appears to remain in their possession.

The northern Mikado is reported to have conferred court appointments

on the principal northern Daimios, and to have sent envoys to the Daimios of Kaga and Etchizen inviting them to remain neutral during the present struggle.

From Osaka I learn that several western Daimios are moving in the direction of placing a check on the action of Satsuma, whose inordinate ambition is evidently a source of suspicion to them; and the latest report, though not yet reliable by any means, is that at Kioto a large fire occurred, and that a portion of the Mikado's palace had been destroyed. This Mikado is further said to have expressed his deep regret that the troops fighting under his flag should have attacked the sacred temple of Wuyeno in Yedo, the residence of his father's brother, (now the northern Mikado;) and finally that he was determined to abdicate. This the Prince of Satsuma and a few other Daimios will most probably not permit him to accomplish.

Several arrests of native merchants were made three days ago at this place by the local authorities, on suspicion of their being spies of northern Daimios; they have all been released, as the charges could not be proved, but were ordered to leave this place forthwith.

From Nagasaki our consul reports to me that there had been a promotion among the government officials, from which it would appear that the Choshin influence was in the ascendant at Kioto. Nothing further had transpired relative to the native Christians; no more had been carried away, and the decree therefore ordering the distribution of these poor people among various Daimios to serve a term of hard labor remains inoperative so far.

The Piscataqua, Rear-Admiral Rowan, and the Shenandoah, are now in this port.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 87.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 24, 1868.

SIR: In my dispatch No. 25, of the 8th April last, I informed you that the indemnity of $150,000 demanded for the families of the murdered Frenchmen at Sakai had been paid. The late French minister, M. Roches, to whom I addressed myself for information on this subject, replied that that matter had been settled to his entire satisfaction, and from the emphatic manner in which this declaration was made, I took it for granted that this sum had actually been paid in full. I now learn from the present minister of France, Mr. Outrey, that an agreement had been entered into to pay this amount in three instalments of $50,000 each, and that only one instalment had been paid. The second instalment, I also learn, will be soon due; and this day the information reached me from Hiogo that a sum of money has been borrowed by the Osaka authorities in the (Kioto) Mikado's name from the *comptoir d'escompte de Paris*, an agency of which is established at this port; but that it has not been possible to

ascertain either the precise amount so lent or the security that has been accepted.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 89.] LEGATION OF THE UNITED STATES,
*Yokohama, August* 26, 1868.

SIR: A slight delay in the departure of our mail enables me to inform you that I have this moment heard of an intention expressed to one of my colleagues, by the local Japanese authorities, to invite the foreign representatives to remove their legations to Osaka, the object of such invitation being no doubt to derive moral support from their presence to the Kioto Mikado's government.

At the same time I learn that the northern Mikado's troops have gained an advantage over the Kioto Mikado's forces. If the Kioto Mikado's government is really in such need of moral support it may be unadvisable to grant it. The fact of the northern government not applying for support would seem to show that they are strong enough without it. At all events, it is in this part of Japan that our interests lie, and where the Japanese question must be solved. I do not propose therefore to accept the invitation when it shall be tendered, but to remain here for the present and until it shall have been ascertained that a Japanese government strong enough to protect foreign interests and to carry out the treaties has made its reappearance.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 62.] DEPARTMENT OF STATE,
*Washington, September* 3, 1868.

SIR: I have to acknowledge the receipt of your dispatch of the 14th of June, No. 59.

It contains information that the Mikado had returned from Osaka to Kioto, and assigns the probable reason for that reactionary proceeding.

The dispatch further shows that the civil war in Japan divides the country, or rather the Island of Niphon, geographically. The Mikado's party being a southern faction, and the Tokugawa party being a northern one, the fact thus developed is suggestive.

If you have correctly interpreted the motives for the moderation and forbearance which are practiced by the Tokugawa party, the policy thus

pursued by them is a very subtle, and, if persevered in long enough, may be expected to prove ultimately a successful one.

In your dispatch you mention further that southern troops are being conveyed in English steamers to the central seat of war; and that you have forbidden the United States merchant steamer Kago-no-kami to take armed men of the Mikado party for a similar destination. It is satisfactory to learn that the commander of the Iroquois seized that vessel and held her to a due observance of the neutrality which you have proclaimed. The proceedings which you have taken to observe that neutrality are entirely approved; so, also, I have the honor to approve your determination to hold the Stonewall and await further developments in the war.

I thank you for your attention in furnishing me with the Japanese political publications, which are appended to your dispatch. Although they are very quaintly expressed, yet they are nevertheless very useful in elucidating the causes of the civil war.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c. &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 63.] DEPARTMENT OF STATE,
*Washington, September* 3, 1868.

SIR: Your dispatch of the 4th of June, No. 57, has been received.

I thank you for the diligence you have shown in giving me a copy of the petition which was presented to the naval and military forces by the Tokugawa family of the Mikado's government.

It manifests much devotion to the cause of the late Tycoon. You have given me, also, a copy of the letter which the naval commanders, under the Mikado's flag at Yedo, have addressed to the representative of the Tokugawa family, upbraiding them for their omission to deliver up their ships of war to the Mikado, pursuant to an alleged compact. You have further given me a translation of the appeal of Kats-awa to the Mikado, in which he insists upon a recall of the late Tycoon from his enforced banishment to Mito.

In view of the past authority and the connections of the writer, if you have correctly described them to me, that paper is indicative of a long struggle on the part of the Tokugawa family.

The importance attributed to the Miya Sama, or lord of the great temple at Yedo, by the Mikado's chiefs and by the people, is an exceedingly curious and interesting fact.

The military fraternization, which took place between the prince of Sendai and the prince of Adsu, in which the Mikado's cause was perfidiously sacrificed, while both parties affected implicit obedience to his commands, shows that treachery is not unfamiliar to the princes of Japan.

The anxiety which we feel for the end of the political convulsions in Japan is increased rather than relieved by the events which you have related.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

*Mr. Seward to Mr. Van Valkenburgh.*

No. 66.] DEPARTMENT OF STATE,
*Washington, September* 4, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 3d of July, No. 65, which is accompanied by a copy of a note which, on the 2d of that month, you transmitted to their excellencies Hizen Jijin and Higaski Kuse Chinjo, ministers for foreign affairs in the Mikado's government, and in which you declined to transfer the Stonewall to that government for the present, and until you shall have received further instructions from this government.

I thank you for the account you have given me of the interesting conversation which you have had with the Enomoto Idsumi-no-Kami, naval commander-in-chief of the Tokugawa party. That conversation seems to confirm the views you have given me of the prudential counsels of the Tokugawa party. It is quite unnecessary, at least at this moment, to consider the question Enomoto Idsumi-no-Kami raised in regard to the right of the Tokugawa party as a clan or faction to receive the Stonewall instead of her being delivered to the sovereign of the empire. Certainly this government dealt with the Tycoon, not as the head of a clan, but as the executive head of the Japanese empire. What we now wait for is to have the people of Japan ascertain for us who is the head of that empire, a question which the late proceedings in Japan have rendered very difficult and perplexing to strangers.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 69.] DEPARTMENT OF STATE,
*Washington, September* 5, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 8th of July, No. 67, which is accompanied by a copy of a letter which was addressed by the consuls of the treaty powers residing at Nagasaki, on the 12th of May last, to the governor general of the province of Kinsin, in relation to the treatment of native Christians in Japan; and the reply made to that communication by the secretaries of the governor general.

The President finds no difficulty in approving of the letter of the consuls. Its sentiments are just, and they are temperately and respectfully expressed. The reply of the secretaries, however, cannot be suffered by the treaty powers to pass without comment. In effect, that paper declares it to be a political crime for a native subject of Japan, in the exercise of freedom of conscience, to forsake the religion which prevails in the empire, and to accept and practice the Christian religion. It asserts it to be the right and duty of the sovereign political power to punish such changes of religion; and it declares that it will be impossible for the government to be remiss in the performance of the duty thus asserted.

Your dispatch is further accompanied by a decree of the Mikado's court, by which it appears that four thousand and ten native converts to the Christian religion are directed to be seized and distributed among

several Daimios, by whom they are to be held to hard labor and scanty supplies of food, until they shall abandon Christianity and return to the traditional religion.

The policy which inspired that decree is elucidated in a paper written by a native Japanese scholar, in which he has discussed the history, principles, and sentiments of Christianity.

In regard to the necessity for issuing this decree, you inform me that there appears to be no doubt, that under the pretense of professing Christianity, many of the people who belong to the humblest and most ignorant classes have neglected their avocations and have held so-called religious meetings at night, where gross licentiousness has prevailed.

You further inform me that it is uncertain whether the Daimios selected to take charge of the unfortunate persons named in the decree have been consulted on the subject, and it is impossible to ascertain whether they will accept the charge of those condemned persons or will refuse compliance with the decree. You further inform me that it is the belief of yourself and your colleagues that the Mikado's decree will remain inoperative, and that no measures requiring the interference of the representatives of the foreign Christian powers will be carried out by the Mikado's government.

It is sincerely to be hoped that the expectations which you have expressed may be realized. Nevertheless, the measures which have been adopted by the Mikado's government are calculated to excite profound apprehension and alarm among the friends of civilization and progress throughout the world. The Japanese have a task sufficiently arduous and perilous in the efforts they are wisely making to accommodate their political and civil institutions and customs to the commercial and social movements of the age, and to the principles and policies established by the law of nations.

They have conducted themselves hitherto in making these efforts with such sincerity and directness, that they have thereby engaged the forbearance, sympathy, and friendship of all civilized nations. If now they shall under the influence of a traditional superstition reject the principle of religious toleration, they will only prepare the way for fearful and bloody political convulsions, which will not cease until Christianity shall have established its claim to be recognized and maintained by the government, and shall be universally accepted and adopted throughout the empire. What the Mikado is attempting to do in Japan differs neither in pretext, purpose, nor mode of operation, from what was attempted eighteen hundred years ago, under similar circumstances, by the imperial government at Rome.

Humanity, indeed, demands and expects a continually extending sway for the Christian religion. Nevertheless it can wait the slow but steady and secure progress of conversion which is always effected sooner or later by a diffusion of knowledge and calm and persevering appeals to the reason and consciences of men.

You may forbear from making a formal representation to the government of the Mikado on the subject of the late decree, until it shall be more clearly seen that the measure of persecution thereby commenced is likely to take effect. In that event you will protest earnestly and firmly, but not without moderation and kindness, against the recent severe measure which the Mikado's government has adopted, and will warn him of the grave political consequences which may be expected to follow so great an error.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

*Mr. Seward to Mr. Van Valkenburgh.*

No. 71.] DEPARTMENT OF STATE,
*Washington, September* 7, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 21st of July, No. 74, which contains a copy of a joint resolution which was unanimously adopted by the foreign representatives then at Yokohama, for the safety of that city; also a copy of a resolution of the naval officers in the waters of Japan.

I have the pleasure to express the assent of this government to the proceedings thus adopted.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 72.] DEPARTMENT OF STATE,
*Washington, September* 7, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 22d of July, No. 75, which informs me that the Italian and Prussian representatives have carried out the intention on their part for opening the port of Neegata.

I have treated sufficiently on this subject in my No. 44. I concur entirely in the view you take in regard to the proposal of the foreign ministers to make Osaka a port of entry, and to open Yedo as a city only.

The discussion of that subject may well be postponed to a future and more favorable time.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 75.] DEPARTMENT OF STATE,
*Washington, September* 7, 1868.

SIR: I have to thank you for your dispatch of the 13th of July, No. 69, in which you have reported to me the appeal of the Mikado's ministers for foreign affairs to the several legations to return from Yokohama to Yedo, and to resume their residence there.

I have no reason to doubt that yourself and your colleagues will decide that question judiciously.

You have informed me that the ministers for foreign affairs have appealed to the representatives of foreign powers against an immediate opening of the port of Neegata. You state further that the representatives of Italy and Prussia, in opposition to that appeal, have urged that the port of Neegata should be declared open to foreign trade, under an expectation of procuring an immediate supply of silk-worm eggs, which

is much desired by the Italian government. You further inform me that, in connection with Sir Harry Parkes, the British minister, you declined to accede to their demand, for the reason that Neegata is at present the scene of a civil contest between the government of the Mikado and the northern chiefs, and that it would be difficult for the treaty powers, at the present moment, to extend armed protection to foreigners who might resort to Neegata.

This proceeding of yours is approved, while the division which has occurred in the counsels of the representatives of the treaty powers is regretted. I sincerely hope that no difficulty nor danger may result to the common cause from that divergence.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 91.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 9, 1868.

SIR: Our consul at Osaka and Hiogo having reported to me that the Japanese authorities at those places had prohibited the transportation of rice to other opened ports in Japan, I immediately addressed a letter on the subject to Higashi Kuze Chinjio, a copy of which I herewith transmit, inclosure No. 1.

This matter was then promptly discussed between the foreign representatives and Higashi Kuze, and I now transmit No. 2, copy of an arrangement which was unanimously accepted by the foreign representatives.

Copies of this arrangement have been forwarded to the consuls of the United States in this country.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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No. 144.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, August* 25, 1868.

The United States consul at Hiogo and Osaka has informed me that the Japanese authorities at those places have issued a prohibition of the transportation of rice to other opened ports in Japan.

I have now the honor to request you to furnish me with full information on the subject, which will then enable me to issue instructions to the United States consul and to take such further action as the case may demand.

In conclusion I beg to inform you that while I am disposed to maintain the friendliest relations with the government of his Majesty the Mikado, I am quite prepared to guard against any infringements or abrogations of treaty rights to the detriment of the citizens of the United States.

With respect and esteem,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

His Excellency HIGASHI KUSE CHINJIO,
*Minister for Foreign Affairs, &c., &c., &c.*

1. Whenever the Japanese government considers it necessary, in view of prevailing scarcity, to prohibit the transportation of rice in foreign vessels from one opened port to another, a previous notice of two months shall be given accordingly to the consuls residing at the port where the prohibition is to take effect.

2. Such prohibition concerning both Japanese and foreigners alike shall only be temporary, and be removed as soon as circumstances shall permit.

3. It being found impossible to issue such previous notice in the present instance, the authorities at Osaka and Hiogo will suspend the prohibition for a space of twenty-one days, namely, from the 11th of September to the 1st of October, and during the period of twenty-one days the transportation of rice from Osaka and Hiogo to other open ports may freely take place in foreign vessels.

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 92.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 11, 1868.

SIR: I have the honor to transmit herewith No. 1, copy of a letter from the Prussian chargé d'affaires, informing me that on the 25th ultimo, while driving in his carriage, he was publicly insulted by two of the retainers of Higashi Kuse Chinjio, the Mikado's representative, who suddenly and forcibly caused his Japanese betto or groom to descend from it.

I inclose, No. 2, copy of my reply, covering copy of the letter I immediately addressed to Higashi Kuse on the subject, in support of Mr. Von Brandt's demand.

The other foreign representatives unanimously acted likewise, and Higashi, thus made aware of the gravity of the offense, promptly assumed the responsibility of the act of his retainers. He notified the Prussian chargé d'affaires to that effect, who then addressed him a note with a modified demand of satisfaction, copy of which I herewith transmit, inclosure No. 3.

In this shape the matter was settled to Mr. Von Brandt's satisfaction, and I now transmit No. 4, copy of the public notice in apology of the insult that appeared on the proclamation boards in this town.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

YOKOHAMA, *August* 25, 1868.

SIR: I have the honor to inform you that to-day at 5½ o'clock p. m., while driving in the principal street of the Japanese quarter, and in passing the train of Higashi Kuse No Chinjio, which was advancing in the same direction, the two principal armed men of his *suite* crying out threw themselves upon my carriage and dragged from it the *beto*, who bore upon his coat the escutcheon of my government.

In bringing this insult, inflicted publicly upon me, to your knowledge, I have the honor to transmit to you herewith a copy of the letter which I have just addressed to Higashi Kuse upon the subject, and I am convinced that you will approve the satisfaction I have demanded.

I profit by this occasion, sir, to renew to you the assurance of my distinguished consideration.

VON BRANDT,
*Chargé d'Affaires of H. M. the King of Prussia.*

His Excellency the General R. B. VAN VALKENBURGH, *&c., &c., &c.*

[Translation.]

YOKOHAMA, *August* 25, 1862.

As the undersigned, his Prussian Majesty's chargé d'affaires met this afternoon at half-past five, in the Japanese main street, the train in which his excellency Higashi Kuse Chinjio found himself in a norimon, this train moving also towards the gate at the end of the street, the two first men of the escort threw themselves upon the carriage of the undersigned, and yelling and threatening, drove off from it his bette, whose coat was marked with the coat of arms of the government of the undersigned.

The carriage of the undersigned was not ten yards distant from the train of his excellency, but none of the officers which composed it, and to whom the undersigned ought to be personally known, did anything to put a stop to this insult. They contented themselves, on the contrary, by putting their hands in a threatening manner on their swords.

This public insult has been wholly unprovoked on the part of the undersigned; he thinks himself, therefore, justified in demanding the following satisfaction:

1. The severe punishment of the two men.
2. The publication of the punishment awarded to them in the newspapers.
3. A written apology from his excellency the minister for foreign affairs, Higashi Kuse Chinjio.

Should the undersigned not, as he hopes, obtain this satisfaction within forty-eight hours, he would find himself obliged, at his great regret, to cease his relations with a government whose officers insult with impunity, in a public thoroughfare, the representative of a friendly power.

With respect and consideration, his Prussian Majesty's chargé d'affaires.

VON BRANDT.

His Excellency HIGASHI KUSE CHINJIO.

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*Mr. Van Valkenburgh to Baron von Brandt.*

No. 146.] LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, August* 26, 1862.

SIR: I have the honor to acknowledge the receipt this moment, of your letter informing me of a daring outrage committed yesterday afternoon by retainers of Higashi Kuse Chinjio, and in his presence, in forcibly removing your groom from your carriage.

I transmit inclosed copy of my letter to Higashi Kuse Chinjio on the subject, from which you will perceive that I not only cordially unite with you in the just and moderate demand you have made, but suggest to him that the punishment of his ruffianly retainers be public, and that I also insist upon being informed what measures he now proposes to take to prevent a recurrence of similar outrage.

Should the answer of Higashi Kuse Chinjio not be entirely satisfactory, I beg to assure you that I am quite prepared to unite with my colleagues in any reasonable measure having for its object the security and safety of persons and property at this port.

I have the honor, &c.,

R. B. VAN VALKENBURGH.
*Minister Resident in Japan.*

Baron VON BRANDT,
*His Prussian Majesty's Chargé d'Affaires.*

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*Mr. Van Valkenburgh to Higashi Kuse Chinjio.*

LEGATION OF THE UNITED STATES,
*Yokohama, August* 26, 1862.

His Excellency HIGASHI KUSE CHINJIO,
*Minister for Foreign Affairs, &c., &c., &c.:*

I have this moment been informed that the Prussian chargé d'affaires, at half-past 5 o'clock yesterday afternoon, was assaulted, not by common people, but by men belonging to your escort, in your presence, in the public street, and that his groom was forcibly taken out of his carriage.

I cordially unite with my colleague of Prussia in the demand he made upon you in

satisfaction for this outrage, and would suggest that the punishment of the ruffians who committed the assault be not only severe but public.

I beg to remind you that you have been sent to this port to maintain friendly relations with the foreign representatives on behalf of his Majesty the Mikado.

You are therefore supposed to have certain power, and it is now in proportion to the good will and power you will show to possess by complying with the just demand of the Prussian chargé d'affaires that you must depend upon the continuance of respect to be shown to you in the exercise of your duties.

I invite you, therefore, not only to promptly comply with the just and moderate demand of his Prussian Majesty's chargé d'affaires, but to inform me what measures you propose to take to prevent a recurrence of similar outrages.

With respect and consideration,

R. B. VAN VALKENBURGH,
*Minister Resident in Japan.*

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[Translation.[

The undersigned, his Prussian Majesty's chargé d'affaires, has had the honor to receive the letter of his excellency Hijashi Kuse Chinjio, minister for foreign affairs, dated from the day before, in which he declares that the insult offered to the undersigned on the 25th instant had happened because his, the minister's, orders had not been sufficiently communicated to his retainers, and that he therefore ought to take the whole fault upon himself and could not punish his retainers.

The undersigned will admit this declaration of his excellency the minister for foreign affairs, but as the insult had been a public one he must demand that the satisfaction should bear the same character. He demands, therefore, that the annexed notification should be posted in Japanese language at the gates of the Japanese main street, and should remain there for three days, so that those persons who have witnessed the insult may also be informed that it was an unintentional one, and one which shall not be repeated.

The undersigned demands at the same time that his excellency shall forward to him a copy of the so-published notification.

The undersigned has conferred with his colleagues on this subject, and it is to comply with a wish they expressed that he will extend the first delay of forty-eight hours until Saturday, the 29th instant, at noon.

But the undersigned must add that he expects during this delay a definite reply from his excellency Higashi Kuse, and that should the same not prove a satisfactory one, he will find himself obliged, at his regret, to take those steps the care for the maintenance of his own and his government dignity will make it his duty to adopt.

With respect and consideration, his Prussian Majesty's chargé d'affaires,

VON BRANDT.

The insult offered to his Prussian Majesty's representative by pulling down his betto from his carriage on the 25th instant, in the main street of the Japanese town, having been an unintentional one and causing great regret to the Japanese authorities, I have expressed my sincere regret for what has happened to his Prussian Majesty's chargé d'affaires, and have issued the necessary orders to all classes of Japanese that a similar offence must not be again committed against any foreigner.

[Translation.]

With regard to the improper behavior which men of my escort have shown towards the Prussian minister by pulling down his betto from his carriage on the 23d instant, I have expressed my deep regret to the minister.

Let every one keep well in mind that henceforward nobody, whoever he may be, shall conduct himself in such improper manner towards a minister or a foreigner.

The above decree of Higashi Kuze No Chinjio shall be published in the town to all people, without any exception.

SABANSHO OF KANAGAWA.

7TH MONTH 12TH DAY, (*August* 29, 1868.)

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 93.] LEGATION OF THE UNITED STATES,
*Yokahama, September* 12, 1868.

SIR: I have the honor to transmit herewith No. 1, translation of a let-

ter addressed to me by the commanders-in-chief of the military forces of the northern coalition of Daimios. Similar letters were also addressed to the other representatives.

This is the first official announcement received of the formation of this confederation, and is the more interesting as it reveals their policy of acting strictly on the defensive and in resistance of the policy of wholesale confiscation which appears to form the basis of the operations carried on by the Daimios under the (Kioto) Mikado's flag.

I enclose No. 2, copy of my reply, of which I hope you will be pleased to approve.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

The military commanders-in-chief of the Daimios of Mutsu, Dewa, and Itshingo, to the American representative respectively state:

Since the establishment of relations of amity and commerce with foreign nations, the stormy ocean of ten thousand miles has been crossed in every direction like a common road, and your country has been prominent in this movement.

Not only has trade been introduced but hundreds of ingenious engines and contrivances can arrive in the country on a fixed day. This indeed is a great benefit to our country.

The Daimios of Mutsu, Dewa, and Itshingo, have a respectful communication to make.

Tokugawa surrendered to the Mikado's court the governmental power which had been handed down from generation to generation. The Mikado is young, and his government inchoate and imperfect, and very unscrupulous subjects, taking advantage of this, rudely seized the governmental power and freely use it as they please.

There is no reliance to be placed on the orders that are issued; sympathy and fellow-feeling are banished, and indulgence in cruel and murderous deeds reign instead.

The Daimios startled at this sudden conflagration hasten to yield, but eight or nine out of every ten of them do not submit with sincerity.

The spirits of the ancestors are watching this movement and the myriads of Japan oppose it.

Before long the principal criminals will be punished, and righteousness will burst through the clouds, and peace between brothers, and kindly relations between masters and servants will be restored.

It will naturally come to this, otherwise there is no justice and human feeling under heaven, and such can never be the case.

The people of the Daimios of Mutsu, Dewa, and Itshingo, from the highest to the lowest, have after careful reflection in public council, and with absolute unanimity, entered into an union with the view of upholding righteousness in the empire.

Those who came to assault them will be repulsed and dispersed and those who leave will not be molested. Ruin will be warded off, and peace will be waited for from a virtuous Mikado.

It is supposed that the representatives of foreign countries have observed the state of affairs and clearly comprehend it, though it is difficult to convey in writing the true meaning of this confederation of Daimios, as it is sometimes to distinguish between right and wrong. Honesty and perverseness may not be apparent. Criminals may pretend to issue the orders of the Mikado, and in this manner be enabled to confuse order with disorder.

It is from apprehension of this that the liberty is taken to submit the foregoing with respect.

The undersigned now appeal to the representative's love of truth to credit them with the sincerity of the announcement. They simply wish to clearly define their position, being aware, also, that this may have an important influence on the future intercourse between the two countries.

The undersigned, in conclusion, beg to express the hope that the representative will be pleased to overlook whatever impropriety there may be in the sudden presentation of the present communication.

ASHINA ZUKIE, (Morikange Sendai.)
IROBE NAGATO, (Hisanaga Yonesawa.)
KADJIMARA HEIMA, (Kagemasa Aidzu.)
ISHIWARA SOYEMON, (Shingetomo Shonai.)
KAWAI KEINOSKE, (Akiyosi Nagaoka.)

LEGATION OF THE UNITED STATES IN JAPAN,
*Yokohama, September* 10, 1868.

The American legation has the honor to acknowledge the receipt of the dispatch dated this 7th (Japanese) month, from the officers commanding-in-chief the military forces of the Daimios of Mutsu-Dewa, and Itshingo, conveying the important intelligence of the formation of the nothern coalition.

This legation has witnessed with profound regret the withdrawal of a government under which Japan enjoyed the blessings of peace during an uninterrupted period of nearly three hundred years, and at a time when liberal efforts were made to bring that government in closer harmony with the enlightened spirit of the age, and to insure for Japan an era of constant and healthy progress.

While during the present unfortunate strife neutrality on behalf of the United States of America will be strictly maintained, this legation sincerely hopes that peace, without which there can be no happiness or prosperity, will soon be restored, and that Japan may thus be able to initiate a policy having for object to secure for herself the high rank among nations to which her important geographical position and the character of her people justly entitle her.

Their Excellencies ASHINA ZUKIE, (Morikange Sendai,) IROBE NAGATO, (Hisanaga Yonesawa,) KADJIMARA HEIMA, (Kagemasa Aidzu,) ISHIWARA SOYEMON, (Shingetomo Shonai,) KAWAI KEINOSKÉ, (Akiyosi Nagaoka,) &c., &c., &c.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 94.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 17, 1868.

SIR: Since the date of my last dispatches no events of importance have transpired; the war still continues north of Yedo. The people of that capital were under some apprehension from the movement of southern troops, who were constantly seen proceeding to the north, and others, it was believed, landing in Yedo. The movement was traced, and it was then found that bodies of those men whom it was probably desired to keep from dissipation in Yedo and at the same time in active exercise, were marching in a circuit, halting in Yedo only at conspicuous places, thus leading the people to greatly overestimate their numbers, and by this means probably intending to prevent their rising or assembling in inconvenient numbers in the vicinity.

From the seat of war the reports of small northern successes appear to be confirmed; the southerners partly in pursuance of their plan of operations, and partly, also, from the tactics of their opponents keeping their troops on the march. They appear to have been driven from an advanced position to which they attached great importance; the only thing known with certainty is that wounded daily arrive in Yedo from the north, thus showing that the war is being continued in the same desultory manner as from the beginning.

The people living near the scene of the millitary operations are reported to furnish provisions only under compulsion and in insufficient quantity, thus necessitating the transportation of rice from Yedo, where it has to be purchased with hard coin. Owing to continued rain the roads are in very bad condition, and it has often happened lately that the southern army has been on short rations. It is evidently part of their policy to treat the common people as leniently as possible, as their active hostility would undoubtedly soon cause the defeat of this so-called Mikado's army. It is even doubtful whether in such a case many of the men composing it could escape with their lives. The absence of unanimity among the Tokugawa Daimios, many of whom persistently favor the Mikado's cause, and the avowed policy of the northern confederation to act strictly on the defensive, will no doubt render such a contingency highly improbable.

The Miya Sama or northern Mikado of whose advent I informed you in preceding dispatches, while exercising the supreme spiritual authority, still forbears to assume any high title for himself. Nor does he in the least meddle with political matters or the direction of military affairs.

The only really interesting event has been the sudden departure of the late Tycoon from the castle of Mito, some forty miles to the eastward of Yedo, for the castle of Futshū in Suruga, also very near to a good harbor. This castle, situated at about sixty miles to the westward of this place, was alloted to the Tokugawa clan, by the Mikado, as the official residence in lieu of Yedo, and shortly Tokugawa Kamenoske, the nominal head of the clan, though only six years of age, will, it is reported, join his reputed predecessor and father by adoption, also, in one of their war steamers.

There is good reason to suspect, though reports are assiduously circulated by his adherents that the late Tycoon sincerely submits to the Mikado and has no connection whatever with the war now going on, that his presence in Mito powerfully contributed to the formation of the northern confederation; and it may further be suspected, therefore, that he will endeavor to influence other powerful Daimjos in the vicinity of his present residence and induce them to adopt similar measures.

In company with Rear-Admiral Rowan, I recently visited Yedo in his flag-ship Piscataqua, remaining there four days. The city, once so populous, looks entirely deserted, and but very few two-sworded men are met in the street.

I have the honor to be, sir, very respectfully, your obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 95.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 17, 1868.

SIR: I have the honor to inform you that I received a letter from Higashi Kuze Chinjio, announcing that the Mikado intends to take up his residence at Yedo, and that the name of that capital has been changed into East Kioto.

In the interval that must necessarily elapse between the conception and the execution of this project, it is quite probable that the military operations will have assumed larger proportions, and that this may induce a postponement of this contemplated change of residence.

The removal of the Mikado would involve a great many changes, all so very difficult of accomplishment, particularly at this season, that I have reason to doubt whether it will ever be seriously attempted.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Van Valkenburgh to Mr. Seward.*

No. 97.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 18, 1868.

SIR: I received this day a visit from Higashi Kuze Chinjio, who came to ask "whether I could now deliver the Stonewall to the Mikado's government."

In reply I informed him that I had not yet received instructions to deliver this ship, but that I hoped that the United States mail due here about the 26th instant would bring me some definite information on the subject.

Higashi Kuze then said that the Mikado's government, being at war, had great need of her at present. "If peace should be restored—and it was hoped that this would soon be accomplished—there would then be no use for the ship." He then asked, "If your government continue to hold that ship, will they refund the $400,000 already paid for her by the late Tycoon? We are in want of money."

I informed him that the Tycoon's government had paid $300,000 and not $400,000 for her, on account, leaving a balance of $100,000, with interest, to be paid on delivery of the ship, besides some other expenses. I added that I was not prepared to say whether the United States would refund the money at all to the Mikado's government, inasmuch as the ship had been purchased and principally paid for by the late Tycoon; but that question, I assured him, it would give me much pleasure to submit to you if he desired it. The Mikado's representative and his councillors then stated that the property of the Tycoon had all been turned over to the new government, which was therefore entitled to receive either the Stonewall or the money paid for her by the Tycoon. They preferred the ship to the money, as she would be of great service to them at present, and wished to know what the expenses of keeping her amounted to, as they believed them to be quite large.

In reply to this I stated that I had not yet received any distinct official information as to what property had actually been turned over by the Tycoon to the Mikado. I assured them that the expenses of keeping the Stonewall were not large, and that I expected those expenses to be refunded on the delivery of the ship. I reminded them that while at Osaka and Hiogo in the early part of the year both Mikado and Tycoon requested me that the United States should maintain strict neutrality in the struggle that was then impending, and it was in accordance with those requests and in concert with my colleagues that I issued a notification of neutrality, which met the approval of both. Under those circumstances and while war was existing it was impossible for me to deliver the Stonewall, and it was with what I rightfully considered the assent of both parties that I held her under the American flag, and I would continue to do so until otherwise directed.

The Mikado's officers admitted the justice of this action and asked me to give them notice as soon as I would be prepared to deliver the ship.

They then suddenly asked me whether I was willing to withdraw my neutrality notification, as there was no war between the Mikado and the Tycoon. To my question, however, whether war existed in Japan at present, they promptly replied in the affirmative, and on my asking who were the belligerents, they stated that the Mikado's government on the one side and Aidzu and other northern Daimios on the other were at war.

I then asked whether it was true that armed ships and soldiers had

recently dispatched from Nagasaki to the north for the purpose of carrying on the war. This was also answered in the affirmative, but to my question whether it was true that those ships had instructions to fire into and take any foreign vessels found in the port of Neegata they replied that "they did not think such instructions had been given, though foreign vessels had no right to visit that port, which had not been opened."

It could not be denied, I stated, that under the agreement made between the foreign representatives and the late Tycoon's government Neegata was to have been opened on the 1st of April last. No arrangement had since been made to postpone the opening or keep it closed. The foreign representatives have a right, therefore, to consider it opened; and some, if not all of them, do so consider it.

The Mikado's officers then reminded me of the letter addressed to all the foreign representatives asking that in view of the war and until it shall have ceased, the port of Neegata might remain closed. To which I replied that, in compliance with that request, they were aware I had instructed the consuls of the United States to permit no American vessels to clear for that port; those instructions had not been cancelled, but the Mikado's officers were also aware, no doubt, that some of the representatives had distinctly permitted their countrymen to visit Neegata for purposes of trade; that port had consequently been visited and was therefore opened in fact.

It was again asserted by the Mikado's officers that the opening of the port was not desired. They had no custom-house there and could collect no duties. Not only had all the representatives been addressed in writing, but he (Higashi Kuze) had held a conference with them on the subject. I reminded them that I had been present at that conference, and that no definite arrangement had been made to keep Neegata closed; the representatives had not all been willing to consent to such a measure.

At that conference, held some four weeks after the 1st of April, Higashi Kuze had even admitted that he had no right to insist upon its remaining closed in the face of the existing agreement that it was to have been opened on the date named.

Higashi Kuze reluctantly admitted this, but observed that at all events foreign vessels had no right to visit other ports on the west coast. This I informed him was quite right, in so far that foreign vessels could not enter unopened ports on the west coast for purposes of trade, unless by some act of their own they had caused them to be considered opened.

The Mikado's officers have repeatedly applied to foreign merchants to charter vessels to convey troops to the north and west coasts, and in some cases, I have reason to suspect, successfully. Higashi Kuze, being of course perfectly aware of the meaning of my remark, prudently abstained from arguing that matter; neither did I deem it of much importance to call his further attention to it. I therefore only informed him again that Neegata was opened *de facto*, and they would have no right to seize or confiscate foreign vessels visiting there.

They again begged me to withdraw my neutrality notification, when I asked them how I could consistently do so, while war was ranging in Japan, as they freely had admitted, and while it was generally known that all the troops and ships they could spare were being sent to the north for that purpose. In conclusion, I informed them that I would be pleased at all times to confer with my colleagues on the subject and to act in concert with them.

The conversation then turned upon existing differences between them and our consul at this port in regard to seizures and confiscations of American property by their subordinate officers, to which I shall not fur-

ther refer at present, as I believe that those matters will be settled shortly in a satisfactory manner.

When Higashi Kuze and suite took their departure he informed them that the Mikado was expected to arrive in Yedo in about six weeks, and as he expressed the wish that I would then see his Majesty, I replied that I hoped to have the honor of an audience on that occasion.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. .98] LEGATION OF THE UNITED STATES,
*Yokohama, September* 19, 1868.

SIR: With reference to my dispatch, No. 97, of yesterday, I now have the honor to inclose No. 1, copy of a report, made to the Prussian chargé d'affaires and kindly furnished me by him, from which you will perceive that at the very same moment when Higashi Kuze and his councillors protested their ignorance of the orders that had been issued to the Daimios' ships cruising under the Mikado's flag on the west coast, another of his councillors frankly stated that those ships had been instructed to seize or sink if necessary any foreign vessel that might be found on the Neegata coast. After careful inquiry I am inclined to believe that not a single American vessel is likely to be on that coast at present.

I have the honor to be, sir, very respectfully,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

YOKOHAMA, *September* 7, 1868.

SIR: By your order I went this afternoon to the Saibancho to inquire from the minister of foreign affairs if it was true, as you had heard, that the Japanese government had sent ships to the west coast to arrest and confiscate foreign ships and to employ force against them. In the absence of the minister, the Handji Hisewi Sayemon replied to me as follows: No ships have been sent there from Yokohama, nor has any order been given on that subject, but already some time ago some ships were sent from Hiogo to Neegata to attack this port and take it; these ships had orders to arrest all foreign ships they might find in the neighborhood of Neegata and which were suspected of smuggling, to search them, and eventually to employ force and to sink them. The ships seized as suspected of smuggling would be treated in accordance with the stipulations of the treaties. Higashi Kuze had besides informed you of this already by his letter of the 4th instant.

KEMPERMAUN.

M. VON BRANDT, Esq.,
*His Prussian Majesty's Chargé d'Affaires.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 99.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 25, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, trans-

lation of a proclamation issued by the Mikado, officially furnished by his agents at this port, announcing his intention to proceed to Yedo and reside there. This announcement had already been made to me officially, as reported in my dispatch No. 95, of the 17th instant, but the language used in this proclamation adds to its interest, as sufficiently foreshadowing, that under any circumstances that may arise, or under any reconstruction of the government that may eventually be attained, Yedo will remain the capital of Japan. Translation of a document from the same source is appended to this proclamation and in further explanation of it.

I also transmit inclosure No. 2, translation of a decree relieving Arisugawa no Miya from his command in chief in this part of Japan. To this decree two notifications are appended.

In this connection I beg to say that the first prince of the blood is the Miya Sama, now acting Mikado of the northern confederation, as reported in preceding dispatches of this series. The second prince is the Ninnagi no Miya, who, I was this day informed, had placed himself at the head of an expedition of southern and western Daimios' forces, who are again attempting the subjugation of the northern provinces and blockading Neegata; and the third prince is Arisugawa, who is superseded by Sango Udayin or Dainagong.

Arisugawa, on his arrival in Yedo, soon lost his first officer, Kugo Dainagong, who appears to have at once declared in favor of the northern Daimios, and it is by Sango Dainagong, above mentioned, the successor of his first officer, that he is now superseded. It appears that as he became better acquainted with the people over whom he was sent to rule, his inclination towards peace and compromise gained strength to such an alarming extent in the opinion of those who still have charge of the Mikado, that his retirement from office was decreed at once. This change is so far important, as it denotes that there is no unanimity in the councils of the Mikado, and also that there is a strict adherence to the policy of general confiscation and no compromise, upon which, all proclamations and statements about benevolence notwithstanding, the new or Mikado's court or government is unquestionably based.

In my dispatch No. 94, of the 17th instant, I reported that the southerners had fallen back from an advanced position, to which they attached great importance. This intelligence has since been confirmed. The northern troops, I am assured, could now march on Yedo with every prospect of success, but for an attack in force now being made in their rear on the west coast. I this day learn that three southern steamers landed a detachment of twelve hundred men at a distance of about sixteen miles north of Neegata; those troops then started to effect a junction with a body of their forces stationed at Nagaoka, also in the province of Itshingo, but were intercepted by the northern troops and severely beaten, with the loss also of all their stores. Engagements resulting favorably to the northern side had been fought on the 7th, 8th, and 9th instants, and the southern force at Nagaoko, of at least fifteen hundred men, was at last accounts surrounded by the northern troops. There is every reason to trust in the correctness of those reports, but whether true or not, I feel quite confident that those engagements, though they may hasten, cannot affect the ultimate result, and that the result will be that all the principal northern and southern Daimios will remain masters, each one in his own province.

A guard of marines from the flag-ship Piscataqua is still stationed on shore; the English and French guards also continue to occupy the posts selected for them. Perfect tranquillity apparently prevails both here

and in Yedo; yet indications are not wanting of an approaching struggle on a larger scale than has been witnessed already.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Proclamation issued by the Mikado.*

As the administration of the government and the protection of the people has devolved upon me, I deem it my duty to proceed to Yedo and to reside there, as it is the principal city in the eastern provinces and the center towards which everything is attracted. Yedo therefore is hereafter to be called Tokei, (Eastern Kioto.)

7TH MONTH, *(August, September,)* 1868.

Since the Bakufu (Tycoon's goverment) was established the prosperity of Yedo constantly increased; the power of Japan was centered in that city and wealth largely accumulated there. And now that the Tycoon's government has been abolished, the Mikado thinks that the myriads of the people miss their usual means of support.

In the present state of the world all countries have free intercourse with each other, and it is the duty of the Mikado to raise this country to a higher level, and properly secure the safety of the people. Wherefore the Mikado has issued the proclamation to let the people know that he inquires into their sufferings and intends to do so by personal inspection.

The people must appreciate the benevolence of the Mikado; they must seek means to support themselves and their families, abolish habits of luxury, and not wait in idleness for a return of former prosperity, lest they fail to earn a maintenance. And therefore all must perform such labor as is most fit and suitable, in order to enjoy natural and permanent prosperity, and to this end they will practice the arts and sciences assiduously and in every way increase the productions of the country.

7TH MONTH, *(August, September,)* 1868.

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*Notifications.*

No. 1.

The Daisotoku no Miya, prince of the blood, commander-in-chief, has been relieved from the office of governor general, and Saryo Udaijin has been appointed to Chin Shio, (general governor.)

7TH MONTH, *(August, September,)* 1868.

No. 2.

The office of Chin Shio Fu has been temporarily established at Kioto (Yedo) and the thirteen provinces east of Suruga, (itself inclusive,) namely: Kai, Idzu, Sagami, Musashi, Ava, Kadzuza, Shimosa, Hitatshi, Kodzke, Shimodze, Mutsu, and Dewa, shall be governed by the said office.

7TH MONTH, *(August, September,)* 1868.

No. 3.

All the Daimios and other noblemen in the thirteen provinces east of Suruga, named, must report to the Chin Shio Fu (office of general governor) whenever they go to Kioto, and also when they return to their provinces or estates.

All the Daimios and other noblemen must have one or two representatives permanently established at Tokee, (Yedo.) As soon as those representatives shall arrive in Yedo they must at once report themselves at the office of the general governor.

7TH MONTH, *(August, September,)* 1868.

*Mr. Van Valkenburgh to Mr. Seward.*

No. 100.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 27, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, translation of a state paper addressed to me by Tokugawa Kamenoske, the present chief of the Tokugawa clan, in whose favor the late Tycoon abdicated. It came in the care of the Mikado's officers stationed here, and was received late last evening.

On the day before yesterday, I am informed, Tokugawa Kamenoske passed through Kanagawa on his way from Yedo to Suruga, where the late Tycoon at present resides. He was accompanied by only two hundred of his officers and their followers and servants. The people all turned out when his train passed, and showed that marked respect which is only paid to a reigning Tycoon.

This event is probably not without significance at this juncture; time, however, can only show to what extent, if any, this departure and this announcement of Tokugawa will affect the political condition of this country.

Very respectfully, your most obedient servant,
R. B. VAN VALKENBURG.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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His Excellency R. B. VAN VALKENBURGH,
*Minister Resident of the United States of America:*

I beg to inform you that the house of Tokugawa surrendered the governmental power to the Mikado's court; an annual revenue of 700,000 kokus was assigned to the house, and it has been ordered to become one of the Daimios of Japan. And therefore, as announced by the Mikado's court, foreign affairs shall henceforth be transacted by the court, and our house shall have no further concern with them.

On the 8th day of the 8th month, (23d September, 1868.)

TOKUGAWA KAMENOSKE.

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*Mr. Van Valkenburgh to Mr. Seward.*

[Telegram.]

No. 101.] LEGATION OF THE UNITED STATES,
*Yokohama, September* 27, 1868.

SIR: War continues; fighting in the north. Rumor that Neegata is burned not authentic. Kioto Mikado has changed name of Yedo to East Kioto, and declares his intention of coming there soon. Open ports quiet.

Very respectfully, your obedient servant,
R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Seward to Mr. Van Valkenburgh.*

No. 79.] DEPARTMENT OF STATE,
*Washington, October* 5, 1868.

SIR: Your dispatch of the 13th of August, No. 80, has been received. You inform me that an English steamer from Hiogo appeared on the 27th of July at Yokohama with sixty or more Choshin officers and men on board, and with the object of procuring possession of the Stonewall by order of the Mikado. You inform me further that the Choshin men promptly returned to Hiogo without making any new application to yourself.

I have read with much interest the papers which accompany your dispatch. A portion of them discloses a very interesting fact, viz., that an expectation is still indulged by a considerable part of the Japanese people that all foreigners can and will ultimately be expelled from Japan. Whether this expectation will be converted and adopted into a partisan or even national policy must depend largely upon the accidents of the civil war, which are beyond foreign control, and more, perhaps, upon the sagacity and prudence of the treaty powers themselves. I trust you will not fail to keep me advised by indications of popular sensibility on that subject.

Appended to the dispatch other papers make it clear that the party which was specially identified with the government of the late Tycoon possessed a large share of the material resources and political experience of the country, and that that party, although confounded and temporarily bewildered, is probably capable of reorganizing a vigorous retaliation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 83.] DEPARTMENT OF STATE,
*October* 5, 1868.

SIR: Your dispatch of the 15th of August, No. 83, has been received. I learn from it that the Mikado's decree heretofore mentioned in this correspondence for the punishment of four thousand and ten native Japanese, by banishment from their homes with hard labor, for the offense of adhering to the Christian religion, has been carried into execution in regard to one hundred and twenty of those unfortunate persons. You further inform me that sixteen of those one hundred and twenty persons were, in the first instance, sentenced to death, but were reprieved in consequence of the representations which were made to the Japanese government by the foreign representatives, and that you have reason to believe, further, that the delay which has taken place in the execution of the sentence upon the remainder of the native Christians is chiefly due to the same influence.

I thank you for showing me how very strong and universal is the popular prejudice which prevails in Japan against the Christian religion. I think I fully apprehend the strength of the Japanese traditions, influences, and customs, and also the formidable strength of the existing pagan hierarchies. While I give full weight, however, to these consid-

erations, on the one side, I feel very sure, nevertheless, that it is not in this age that the dissemination of the principles and sentiments of the Christian religion is to be arrested or even interrupted or hindered by any possible ecclesiastical or political national combinations in Japan.

You express with emphasis an opinion that it would not be prudent to do more in regard to this Japanese religious persecution than has been done already, and you add that your colleagues and yourself are of opinion that the duty to be enjoined upon the representatives of the western powers for the present should not go beyond urging the authorities persistently, in a firm and friendly manner, to adopt a more humane policy and to revise the laws in a more liberal sense.

This subject has been already discussed to some extent between the United States government and the other western powers. The governments of Great Britain and France have substantially agreed in approving the line of policy which you have thus indicated. I now cordially concur in that approval, and therefore you will not be expected in any case to go beyond it, without the full assent and concurrence of your colleagues. Nevertheless, you may make known to them that I am oppressed with a painful apprehension that if the present persecutions shall be continued, then it must happen that in some, perhaps merely accidental way, the sympathies which foreign Christians residing in Japan cannot fail to feel and manifest may bring those foreign Christians themselves into conflict, either with agents of the domestic government or with an infuriated people. When one foreign Christian shall have suffered martyrdom in Japan for his faith, Christendom will be shocked to its center, and it may demand that the policy of forbearance and encouragement which the treaty powers have hitherto practiced in Japan shall be reversed.

Influenced by these apprehensions, I sincerely hope that the representatives of the western powers in Japan, besides urging the Japanese government, as they propose persistently and in a firm and friendly manner, to adopt a more humane policy, and to revise the laws in a more liberal sense, may find it neither unsafe nor imprudent to seek and obtain the restoration of the natives now suffering under the existing persecution to their freedom and their homes.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c.*, *&c.*, *&c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 85.] DEPARTMENT OF STATE,
*Washington, October* 5, 1868.

SIR: Your dispatch of the 20th of August, No. 85, has been received. The events which it recites do not open to us a prospect of a speedy peace, nevertheless they do prove that the revolution in Japan has attained a new and interesting stage. When the civil war began Japan had one Mikado (a sovereign in spiritual things) and one Tycoon (practically sovereign in secular affairs.) The Tycoon has disappeared, and there is now no temporal sovereign, while there are two Mikados, in conflict. It is hard to conceive how order and authority can be maintained at all in this anomalous condition of government.

While there seems to be no way now open to friendly nations to induce a mitigation of the atrocious cruelties practiced by the Japanese in the

civil war, we are, nevertheless, left to enjoy the consoling reflection that licentious cruelty is always swiftly followed by a reaction in favor of humanity.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 108.] LEGATION OF THE UNITED STATES,
*Yokohama, October* 23, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, translation of an announcement by the army and naval officers of the late government to the foreign representatives, of their intention to abandon the course of neutrality to which they had hitherto adhered, and to take an active part in the struggle with all the means at their command.

This document was received at this legation and promptly communicated by me to my colleagues. It is dated the 4th instant, and early on the next day the Tokugawa squadron was seen passing this port outward bound. A land force of between five thousand and six thousand men, well armed and equipped, are said to be on board of those steamers.

The fact of such a force having been organized and shipped in Yedo, and leaving that capital in broad daylight without molestation or even protest, sufficiently shows the utter powerlessness of the (Kioto) Mikado's authorities, who are residing and issuing decrees there.

Considerable bodies of troops have been landed by the southerners from steamers on the west coast. The northerners continued falling back, skirmishing, and in this manner the entire province of Itshingo was retaken, including Neegata, which was evacuated after the guns of the fort had been spiked.

A few foreigners, who happened to be there at the time, I learned, escaped on board of a foreign steamer and were safely landed at Hakodate, though not without suffering loss, as some of their goods, it is reported, fell into the hands of the southerners, from whom it will be impossible to recover any.

On the west coast, therefore, the great northern Daimio of Shonai, Sakai Sayemonnojo, has to bear single-handed the brunt of the onslaught of the southerners, who are aided by the prince of Akita, another northern Daimio, who, from the beginning of this civil war, declared in their favor; and thus far Shonai, who is reported to be cordially supported by his people, has held his own successfully. The odds against him, however, are so great that it has been impossible for him to lend any aid to his allies, the great Daimios of Sendia and Aidzu, who are hard pressed by a large and well-armed force of southerners, having Yedo for their base of operations, in so far, only, that they draw their principal supplies from there.

Rumors of northern and southern victories and defeats are very plentiful; but as they generally proceed from interested sources, no reliance can be placed in them. The general impression, however, that the northerners are avoiding, as far as possible, engaging for the present, but are preparing to act vigorously on the offensive when the cold weather shall have set in, is entitled to some credit.

From Hakodate I learn that the garrison, consisting of soldiers from

Hambu, another northern Daimio, had set fire to their barracks, spiked the guns of the fort and crossed the straits in a foreign steamer chartered by them, and from this undoubted fact it would appear that their prince had abandoned his neutrality policy, and was preparing to join his northern neighbors in resisting the southern invasion.

The only item of interest that reached here from Hiogo is, that owing principally to counterfeits the Mikado's paper money had become worthless, all the efforts of his officers, notwithstanding. As I reported in one of my preceding dispatches, no circulation of this paper currency has obtained in Yedo, and the people's point-blank refusal to take it has been respected.

The late Tycoon remains at Suruga, in a temple near the castle, which is occupied by Tokugawa Kamenoske, his successor, as chief of the clan, who is now gathering those of his officers and retainers around him who remained faithful. The fidelity of those officers and men, it appears, is likely to be put to still further tests; no pay or rice allowances are granted, but to each person a lot of ground will be given to be cultivated for support. Poverty and compliance with the (Kioto) Mikado's commands are thus ostentatiously paraded—with what sincerity, time alone can show.

The interest of the struggle is now centered on the movements of the naval and military chiefs of the late government, which will no doubt greatly influence the results. The contest in some respects has now become a sort of triangular one.

When the late Tycoon withdrew and declared his submission to the Mikado, the southern troops bearing this Mikado's flag marched without meeting with any resistance through the Tokugawa territories to those of the northern princes, where they found themselves suddenly checked. They have been permitted to go to a certain point unmolested, and all their efforts to go beyond it have been fruitless.

The late Tycoon declined to become a belligerent; and if he adopted that course with the view of being called in as mediator between the northern and southern factions he has not yet been successful. That something of this kind was contemplated, and is perhaps being entertained at this moment, appears highly probable from the tenor of the document (inclosure No. 1) above referred to. The avowed object of the naval and army officers of the late government is to establish an equilibrium between the contending parties; and it is well worth observing, that while they frankly state it as their opinion that the southerners are carrying out a policy of confiscation, they at the same time admit that the aims of the northerners do not differ from those of their opponents. A northern supremacy would probably be as much mistrusted as one from the southern Daimios; and if the Tokugawa officers succeed, either by persuasion or by force, in convincing either party of the hopelessness of subjugating the other, the way may be paved for compromise and peace. No Daimio in Japan, however powerful in his province or influential with his neighbors, is of sufficient rank to undertake the mission of mediator. The late Tycoon is then probably the only personage who could assume this task with the prospect of successful accomplishment. The language used in the announcement of the Tokugawa officers would seem therefore to indicate the policy adopted by their chief, the late Tycoon.

It may be found quite difficult at present to procure the assent to any such policy from the southern princes, who still have field artillery, of which the northern Daimios appear to be destitute. They have apparently not yet abandoned the hope of getting the upperhand in the strug-

gle, and until they are prepared to admit their inability in this respect, it may be expected that they will decline to listen to any overtures for peace. It is thus quite probable that the officers of the late government will be obliged to establish by force their right to use persuasion.

Their departure must have caused great uneasiness to the Mikado's officers in Yedo, who at once issued a decree, a translation of which I herewith transmit, (inclosure No. 2.)

I also transmit inclosure No. 3, revised translation of the manifesto addressed to the Mikado's court by those army and naval officers who, in the evening previous to their departure, sent copies to the local press for insertion.

A financial transaction of some importance has within the last few days been consummated at this port. The local (Kioto Mikado) authorities borrowed a large sum of money, estimated at between $500,000 and $600,000, from an English banking corporation, pledging the customs revenue as security for both principal and interest. I can furnish no details, as nothing in regard to this transaction is allowed to transpire; but it is surmised that this sum has been appropriated to pay the second installment of $50,000 of the Sakai murder indemnity due to France; and also a sum of about $500,000, alleged to be due to the same power in repayment of advances made to the late government for army cloth, and machinery used in the docks at Yokoska, near this port, and which are still under construction.

The legations all remain established here. The Oneida is in port.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

We, the officers of the army and navy of the late government, respectfully represent, for the information of their excellencies the representatives of the treaty powers, that since Japan became involved in civil war, the contest between the north and the south, as their excellencies are aware, has been uninterrupted, and the whole nation has suffered to an extent that is indescribable.

The southerners, pretending to act under the orders of the Mikado, have committed innumerable outrages on innocent and peaceable people, murdering and plundering them without cause or provocation.

The northerners, thus roused, have determined to maintain their rights at any sacrifice. The object of one party is to utterly destroy their opponents and take possession of their property; nor has the other party any other object.

The Mikado is entirely ignorant of the schemes of these two parties.

There are Daimios at present who seem desirous of proposing peace, but their efforts would probably be unsuccessful, as the resentment of the north is too great to admit of reconciliation.

Until now we have carefully watched the national interests and feelings, and in our opinion the convulsion has not yet arrived at maturity. Many have strenuously endeavored to establish a balance of powers, but, alas! all these attempts have been in vain, and an equilibrium between the contending parties has not been found.

Wherefore, we, the officers of the navy and army of the late government, after due deliberation, have resolved to achieve by deeds what words have failed to accomplish, and with all the means at our disposal to repress the arrogance of the southerners and to aid the distressed people of the north in the maintenance of their just rights. For this purpose we leave Yedo. Our object is to hasten the return of peace in Japan, in the hope that both parties will consider their condition and raise their exhausted and down-trodden populations into healthy activity, to be free in their vocations, in order that the civilization of the country, and consequently our political and commercial intercourse with foreign nations, may be promoted. We have undertaken this mission on our own responsibility.

The inclosed dispatch, the tenor of which is nearly identical to this, we desire to present to the Mikado; but owing to many obstacles we are unable to do so. We therefore request that their excellencies, the foreign representatives, will have the kindness to present it to the Mikado on our behalf, at the earliest opportunity.

The officers of the navy and army of the late government avail themselves of this opportunity to assure their excellencies, the foreign representatives, of their profound respect and consideration.

OCTOBER 4, 1868.

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[Translation.]

*Decree from the Yedo government office.*

The authorities of Kamenoske have reported that Enomoto Kamajiro and his subordinates, on board the eight men-of-war and steam transports of Tokugawa Kamenoske anchored off Shinagawa, decamped from that place on the night of the 4th instant. These vessels have, from the beginning, been constantly lying at anchor off Shinagawa, and the authorities of Kamenoske had given a positive assurance that they would regard the submissive will of their old master Joshinobu, and would not weigh anchor in violation of good order. After this, their sudden decamping, and still more, their leaving behind them documents highly arrogant and disrespectful to the Emperor, is, of course, really an act of rebellion; and having decamped regardless of the will of their master, and without any reason, they are certain at last to commit acts of piracy. Orders have therefore been given to the authorities of Kamenoske, and the above is to be communicated by the proper officer to all the foreign representatives. Supposing they should go to attack any of the open ports and commit illegal acts against foreigners, whatever action is taken that circumstances may suggest, it need cause no concern; and moreover, if they should cross the seas, and foreign governments should rigorously refuse to receive them as friends, it is hereby ordered that it is to be so arranged that this shall not disturb the treaty relations between Japan and those countries.

*Names of the ships.*—Kaigo, Kwaiten, Banriyo, Chiodagata, Chokei, Mikaho, Shinsoku, Kanrin.

OCTOBER 10, 1868.

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## *Mr. Van Valkenburgh to Mr. Seward.*

No. 110.] LEGATION OF THE UNITED STATES,
*Yokohama, October* 26, 1868.

SIR: I have the honor to inform you that I received a letter from Higashi Kuze Chinjio, announcing that the (Kioto) Mikado had been crowned in that city. No date nor particulars of this coronation festival or ceremony have been furnished.

The acting Mikado of the north is now seldom mentioned, probably because he strictly confines himself to his spiritual functions.

The Kioto Mikado's visit to Yedo appears to have been postponed, though it is quite possible it may soon take place, as a strong pressure to bring it about is evidently being brought to bear upon those who have charge of him.

Tranquillity prevails in Yedo. A few days ago a small fight took place in a Daimio's residence in the rear of our legation buildings, on which occasion between twenty and thirty men were killed.

They are said to have been robbers. Small fights of that sort are now of frequent occurrence.

With the withdrawal of the Tycoon's government the police arrangements became disorganized and the force disbanded. Numbers of vagrants and vagabonds, taking advantage of this state of things, prey upon the industrious citizens, and perpetrate those murders and robber-

ies; and this is likely to continue until a government strong enough to check their depredations shall make its reappearance.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 112.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 4, 1868.

SIR: I had the honor to inform you, in my dispatch No. 52, of the 26th May last, that the Tosa men, who murdered eleven sailors belonging to the French corvette "Dupleix," at Sakai, in March last, had been canonized for that outrage. I gave it then as my opinion that I did not believe the Mikado's court had been willfully guilty of such an offensive proceeding, but that it rather was the unauthorized act of some high priests, which that court had been powerless to prevent.

I now transmit inclosure No. 1, a print of the burial place where the remains of those murderers are entombed. The hat and whip show that they either belonged or were raised after death to the equestrian or responsible class. On the tombstones are engraved the names and the last words spoken by each of these men, a translation of which formed inclosure No. 1 of my dispatch No. 52, above referred to.

These prints are freely hawked about the streets of this town, and also other places, no doubt. I greatly regret this, as it seems to indicate that there is enough anti-foreign feeling extant to warrant a supply of such a publication in a popular form.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 114.] LEGATION OF THE UNITED STATES,
*Yohohama, November* 7, 1868.

SIR: I have the honor to inform you that I this day received a letter from Higashi Kuze Chinjio, announcing that the Mikado's departure from Kioto for Yedo was to have taken place on the 4th instant, and that as soon as the date of arrival would be known he would not fail to communicate with me. I further unofficially learned from the same functionary that the Mikado will be accompanied by several high dignitaries, and by an escort of three thousand men, composed of one thousand Choshinmen under command of their prince in person; one thousand Tosa soldiers, under command of the retired Daimio of that province; and the remaining one thousand men belonging to various Daimios.

A vanguard of the Mikado's train, under command of the Daimio Todo Yamato No Kami, already passed through Kanagawa this morning.

Yesterday being the Mikado's birthday, salutes were fired at noon from the fort and all the men-of-war in port.

Along the tokaido (the main road from Kioto to Yedo, a distance of about four hundred miles) preparations are now being made for a proper reception of the Mikado. Houses, palaces, and bridges are being repaired and renovated; nothing is omitted but what will impress him with the great prosperity of his country. Not only this main road, but even some of the by-roads, are being carefully swept and cleaned. The Mikado will pass through Futshü, in Suruga, where the late Tycoon and Tokugawa Kamenoske, the nominal chief of the Tokugawa clan, are now residing; and throughout the length of that province most extensive preparations are in progress, under the late Tycoon's personal supervision, to give the Mikado a most sumptuous reception.

Already the popular belief is gaining ground that the late Tycoon will accompany the Mikado to Yedo. This is, however, very doubtful, though not in the least improbable. Such an occurrence would do much to allay the present uneasiness in this part of the country, though no actual war at present exists here, as it would be accepted as a favorable omen, and as holding out a prospect of compromise and perhaps of a return of peace.

It is now nearly two hundred and sixty years ago that the Tycoon or Shogoon became the hereditary chief executive of this country. Iyeyas, or Gongensama, was the founder of the Tycoonate, and under his laws the relative positions of the Mikado, Tycoon, and Daimios were deemed to have been fixed forever. During this long period the Mikados never left their palace in Kioto except on extremely rare occasions, to visit some temple in the vicinity of that city; and such visits were always so timed that they never spent the night under another roof but their own.

When the present Mikado, therefore, was recently induced or compelled to visit Osaka, this was by many considered an innovation that boded no good results, and which might bring disaster on the empire. It is quite probable that the heavy floods and the almost total failure of the crops in several of the western provinces of Japan strengthened these superstitious beliefs; but the military element is so much in the ascendant at present, that even superstition had to yield to expediency, and it may well be taken for granted that no such measure as this Mikado's journey would have been resolved upon if there was no urgent necessity for it; and hence, that this approaching visit to Yedo of the highest personage in this country must have a deep significance, and cannot fail to exercise a strong influence on passing events.

It is already unofficially announced that the Mikado's birthday is to be signalized by a decree conferring on thirty-five thousand hatamotos (hereditary lower nobility) of the late government the same pay and rice allowances enjoyed hitherto. This intelligence, if confirmed, would, in some respects, be a step in the right direction. It would be simply necessary for the Mikado to issue another decree abandoning the confiscation policy, and leaving every one in the possession of vested rights to put an end to strife. This, unfortunately, I apprehend his advisers or guardians will not permit him to accomplish. All the northern Daimios, however misrepresented, would, I feel sure, cheerfully acknowledge the Mikado's supremacy as in former times, a point which they never contested; but they are likely to remain in arms, and fight in defense of their lives and property, as long as he remains under the control of other Daimios who are bent on their spoliation.

From information carefully collected, a clearer insight has been gained of the unexpected policy of blind submission pursued by the late Tycoon. This policy appeared the more extraordinary, as there is little doubt that the decrees of the Mikado abolishing the Tycoonate, &c.,

were spurious, in so far, at least, that they unquestionably were issued without his knowledge or consent. The Mikado, though now declared of age, is in fact still a minor, having just celebrated his nineteenth birthday; and there is good ground for believing that all the recent acts of which he is said to be the author either originated in factional dictation or were obtained by fraud.

The Shogoons or Tycoons, in that capacity, and principally as chiefs of the Tokogawa clan, controlled a revenue equal to about one-third of the whole revenue of this country. Out of this revenue they annually subsidized the Mikado's court, paid hereditary allowances to several thousand of their hatamotos and other retainers, and met all the expenses of the government of this country. Those expenses were slightly increased after relations with other countries were established, when a department for foreign affairs was added to the other branches of the government. From those hereditary stipendiaries the officers of the government were selected, by far the greater number, however numerous the officials themselves, remaining eligible for office, in more or less temporary retirement and watching their chances. When the war broke out, the office-holders remained faithful to their prince or to their pay—the late Tycoon best knew; and of the office-seekers, a majority, in the hope, no doubt, of bettering their prospects of employment, declared in favor of the new order of things. If they were military men, their services were accepted by the officials acting in the name of the Mikado, and they were then at once sent to the front, as reported in preceding dispatches; and if civilians, they were informed that their services were not required. This very numerous clan, therefore, is now adrift, and only about thirty thousand of those who remained faithful accompanied the late Tycoon in his retirement to Suruga. Many proceeded thither in American steamers, chartered in his behalf for that purpose.

The time for collecting taxes has now approached, and in the various districts forming the domains of the Tokugawa, the Mikado's officers may now be seen appraising crops and making assessments.

About four years ago the Prince of Choshin was in much greater straits than the late Tycoon at present. By a Mikado's decree he was deprived of five-sixths of his revenue, himself sentenced to retirement for life. The heads of three of his chief officers were sent by him in atonement of the offense alleged to have been committed, and that atonement was not accepted. Some fighting ensued then, much in the same way as that at present carried on, though on a smaller scale. The upshot was, that he not only retained all he possessed, but at this day he is in high favor and influence, and, much as I regret to say it, as his anti-foreign feeling is undisguised, he appears to be the person who at present chiefly controls the Mikado, whom he will accompany in his visit to Yedo.

In this strange mutation of affairs in Japan, so often witnessed and so difficult for foreigners to comprehend, so as to be almost inexplicable, there is some ground for believing that the late Tycoon, well known as an able politician, will succeed in recovering at least some of the property and the rights he now appears to have lost. His present revenue, though comparatively small, is still equal to that of a first-class Daimiate, and slightly exceeded by the revenue of two Daimios only, the princes of Kagu and Satsuma. But if he should be repossessed of his estate, or only another portion thereof, he will again become the wealthiest, and therefore the most powerful, personage in this country, even if he should not again take part in its government.

The war in the north continues unabated. I learn from as good authority as can be found in this country that the southern and western

Daimios, partly by the aid of their own and of foreign chartered steamers, actually succeeded in massing some sixty thousand of their men under the Mikado's flag to the west coast. This army, the greatest portion of which came overland, however, was reinforced by some twenty thousand men belonging to various northern Daimios, who joined their cause, being principally actuated by jealously or fear of their neighbors. This statement appeared to me incredible; but putting it down at one-half that number, say forty thousand men all told, and this, I feel sure, is not exaggerated, it would show, as many of those troops are now operating at a distance of between two hundred and five hundred miles from their homes, a much greater military capacity than might reasonably have been expected from this people. The northern troops, though not so well armed as their opponents, and among whom the absence of concerted action is equally conspicuous, are reported to have thus far resisted quite successfully. On the 25th ultimo the first snow fell at Hakadate, and in the northern highlands the commencement of winter must have been even earlier. It is generally anticipated that the northern troops, who are of course better acclimated, may soon obtain some decided advantage. It would also appear that the southern and western Daimios sent all the men they could possibly spare to the northern coasts, with the view of closing the campaign before the winter sets in, and there appears to be no doubt now that in this respect they have utterly failed. The reports from the seat of war are very conflicting, and reach here only colored by partisan feeling. One day it is rumored that the castle of Aidzu has been taken; and on the next day the report arrives that not only did Aidzu succeed in driving all his enemies out of his territory, but that his castle is well defended, provisioned, and prepared for a three years' siege. The Prince of Sendai is reported as about submitting to the Mikado, or going into retirement; other princes, hitherto neutral, as having declared in favor of one party or other. Some of the smaller Daimios are said to have changed sides some two or three times already

The Tokugawa squadron, which I informed you sailed from Yedo on the 5th ultimo, encountered a typhoon, doing some damage; one of the vessels, with about five hundred troops on board, was totally wrecked on the east coast, and some lives lost. Two or three other vessels were partly dismasted; and the flag-ship, the Kayomam, a twenty-five hundred-ton frigate, quite heavily armed, had her rudder disabled. This squadron, some seven days ago, was still repairing and refitting in Sendai Bay. What became of the troops on board of these vessels has not yet been ascertained.

Altogether, matters are in a most deplorable condition.

The Mikado, the nominal head of what is miscalled the government of Japan, and utterly irresponsible, in virtue of his alleged descent from the gods, is a mere instrument under the control of a few Daimios and others, who are zealously endeavoring to establish a monarchy, but which thus far has proved to be a simple despotism of the worst description. The Mia Sama in so far remains the acting Mikado of the north, as he appears to strictly confine himself to the high spiritual functions of such office, by interceding with the gods on behalf of the people. There are, however, some indications already of his drifting into meddling with the temporalities.

The late Tycoon, who has just been dispossessed of an immense revenue, and of the exalted station of the *de facto* sovereign of Japan, and recognized as such also by the foreign powers in their treaties, is now acting in a, to foreigners, most incomprehensible manner, by spending large sums of money in order to sumptuously entertain the very Mikado by

whose alleged orders he is undergoing a sentence without ever having had a trial or been heard in his defense.

The material power of this country has always been in the hands of the great Daimios, and a majority of them are now asserting that power in such a variety of everchanging combinations, with or against each other, as to utterly bewilder those whose duty it is to study those matters for the information of their respective governments. The people are not unconcerned or indifferent. No special benefit did they ever derive from any change of government, nor had they ever the slightest voice in the management of public affairs. They well know that, win who may, they have to pay the expense, and will be taxed accordingly. With the aid of foreign capital some trade is still carried on at the open ports, but the houses of the large merchants in Yedo are closed almost without exception. There is a general want of confidence. First, the Prince of Satsuma ruled the Mikado's court, and at present, the Prince of Choshin, assisted by Tosa, would seem to be the governor. The great Daimios of Etshizen, Kaga, Kishu, and others, may at any moment muster enterprise enough, as they certainly possess the power, to take their turn; and all the acts emanating from a court so governed will be in the name of the Mikado, who only receives rose-colored reports, if any, and is led to believe that he is conferring the greatest blessings and benefits upon the happy people of his country.

I do not believe that the south, notwithstanding its tremendous efforts, can subjugate the north; and even if they did, that they can succeed in holding it in submission for any length of time. The winter now favoring the hardier northern people, some success on their part at this moment might possibly convince the south of the recklessness of their undertaking, and in this only, if it should be brought about, do I perceive a faint gleam of hope, either of suspension of hostilities or perhaps even of a restoration of a state approaching to tranquillity or peace.

I transmit herewith a map showing the crests of the northern Daimios, their battle-flag and pennants; their policy is supposed to be chiefly a renewed observance of the laws of Gongen Sama, above referred to.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 115.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 11, 1868.

SIR: The doubt expressed in my dispatch No. 81, of the 14th August last, whether the Mikado would assume the treaty-making power, has been removed. Mr. Van Palshock, the representative of Holland, informed me this day that, in his capacity of minister plenipotentiary of the King of Sweden and Norway, he had signed a treaty of amity, commerce, and navigation, between that kingdom and Japan.

This treaty confers no privileges not already secured on behalf of the United States.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH

HON. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

*Mr. Seward to Mr. Van Valkenburgh.*

No. 90.] DEPARTMENT OF STATE,
*Washington, November* 12, 1868.

SIR: Your dispatch of the 17th of September, No. 94, has been received. I thank you for the interesting details of Japanese affairs which that paper presents. It seems extraordinary that the Mikado's government should attach importance to the written renunciation of the government by Tokugawa Kamenoske, who, it appears by your account, is an infant of six years. The pacific attitude of the Mia Sama, or northern Mikado, is most singular. It is not easy, at this distance, to conceive how a belligerent party can be maintained by the northern Daimios without any civil head or general acquiescence under one military direction.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Seward to Mr. Van Valkenburgh.*

No. 92.] DEPARTMENT OF STATE,
*Washington, November* 12, 1868.

SIR: I have received your dispatch of the 18th of September, No. 97, in which paper you mention a renewed application for the delivery of the Stonewall to the Mikado's government.

Your proceeding in retaining possession and control of that vessel is approved. We, nevertheless, anxiously await such a solution of the political complication in Japan as will enable this government to relieve you of that embarrassment.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

R. B. VAN VALKENBURGH, Esq., *&c., &c., &c.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 117.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 17, 1868.

SIR: In my dispatch No. 108, of the 23d ultimo, I informed you that, owing principally to counterfeits, the paper currency issued at Osaka by the Mikado's authorities had become worthless. The stagnation in business in that city and at Hiogo, consequent on the discovery of those numerous counterfeits, was fortunately only temporary. The paper was promptly taken in payment of dues at the custom-houses at those two places; and it continues to this day to circulate, though at a depreciation, which has lately fluctuated greatly, with a downward tendency. At the latest date from Hiogo (the 14th instant) it was quoted at 45 to 50 per cent. discount.

This Osaka paper currency has been offered by foreign merchants in payment of duties at the custom-house at this port, but the Japanese authorities declined to take it.

There exists at present, both among the foreign and Japanese mer-

chants, some apprehension that the local authorities at Yedo and this port will attempt a forced circulation of paper currency among the natives at an early day. That this apprehension is not unfounded is sufficiently evident already, though the success of such an experiment remains doubtful.

In the territories of Tokugawa metallic currency has, from time immemorial, been used in effecting exchanges; but in the Daimios' territories paper currency, in the greatest variety, was almost exclusively used. The attempt to pass irredeemable paper in this part of Japan would be such a breach of custom, and so hazardous withal, that I hope it will not be made; and, so far as our merchants are concerned, I am inclined to think, as they are in possession of a general knowledge of the state of affairs in this country, that the best course will be to leave it to their option to take such paper (if issued) or not, as they may deem most consistent with their interests.

I have the honor to be, sir, your most obedient servant,

R. H. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 119.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 20, 1868.

SIR: I have the honor to transmit herewith inclosure No. 1, translation of a manifesto emanating from the Miyasama or acting northern Mikado, anathematizing the Prince of Satsuma as the rebel, and the author of the present convulsion in this country. The tone of that document furnishes the measure of the intensity of the hostility now prevailing between the principals in this civil strife, which, moreover, is fully borne out by the numbers of wounded southerners constantly arriving in Yedo, and also occasionally at this port.

An interesting feature in this document is the respectful reference to the Buddhist religion. It is well known that Satsuma and the Mikado's court would be pleased to see it superseded by the Sinto creed, the oldest established religion in Japan, and which, during a long period in ancient times, contended with Buddhism for supremacy, until Gongendama, the founder of the Tycoonate, in order to put a stop to the quarrels between the priests of those two sects, which occasionally threatened the peace in portions of the empire, ordered their amalgamation. Since then Buddhism, worshiped together with the emblem of Sintooism—a mirror, inviting examination of self, with white paper, symbolic of purity, behind it—gradually became the religion of Japan; and almost exclusively among the literary classes Confucianism was often ingrafted upon that creed.

I believe I am correctly informed that all the native converts to Christianity, without exception, previously were Buddhist worshipers; and hence it is surmised that this attempted revival of Sintooism on the part of Satsuma and his coadjutors, who are in possession of much better information than the Miyasama, has principally for object to check further proselytizing among the natives by both Roman Catholic and Protestant missionaries of different countries and denominations.

On the 16th instant, at a joint conference with the foreign representa-

tives, for the purpose of discussing the opening of Yedo, strongly urged by the Mikado's authorities, Higashi Kuse Chinjio made the unexpected announcement "that, on the Mikado's birthday, (the 6th instant,) the two princes of Aidzu—that is, the prince and his adopted successor, a brother of the late Tycoon—marched out of their castle of Wakamatsu in dresses of ceremony, preceded by a large white flag on which was inscribed 'surrender,' and followed by a long procession of their retainers, also in dresses of ceremony, without swords and with heads shaven, and all surrendered to the Mikado's forces. An officer of Satsuma was sent to take possession of the castle, which was delivered to him with all the arms, ammunition, &c. Three thousand men, women, and children had been besieged in that castle during twenty days, and they had no more rice nor firewood. The two princes were in a temple in the vicinity of that castle, awaiting the punishment to be awarded by the Mikado. One-half of the Mikado's army was on their return to Yedo already, and the other half was sent after the Prince of Sendai. No great resistance was expected either from that Daimio or from the other northern princes still in arms."

The foregoing is an official statement, made by the highest Mikado's functionary at this port, with such perfect assurance that it is almost impossible to doubt its truth.

It would appear, therefore, that the war was over. This, unfortunately, I apprehend, will not be the case for some time. It is difficult to say, even if the above official statement be true, how long it will be before tranquillity and confidence shall have been restored among the people. In Shonai, I learn, the able-bodied men of all classes have learned their drill, and fight for their prince with cheerfulness, keeping a southern force, estimated at fifteen thousand men at least, besieged in the castle of Akita, on the northwest coast.

Yesterday I received the letter promised by Higashi Kuze Chinjio, informing me of the Mikado's progress to Yedo, where he is expected to arrive on the 24th, passing through Kanagawa on the 22d instant. Foreigners of all nationalities being desired to abstain from using the tokaido during the passage of the train, I have informed our countrymen, through the consulate at this port, of the wish expressed, which I feel sure will be cheerfully complied with, as facilities for viewing that procession have been courteously extended to all by the Mikado's authorities stationed here. I have this moment received a message from Higashi Kuze Chinjio, informing me that, owing to an overflow of a few streams, the Mikado's progress had been delayed a day or two. There appears to be no doubt of his having actually left Kioto, as the original official announcement to that effect is confirmed by intelligence this day received from Hiogo by sea.

As for the other official announcement of the 16th instant, relating to Aidzu's alleged surrender, I can only say, without passing judgment on the Higashi's veracity, that it is not improbable he has either been grossly misled or carried away by partisan feelings. All reports received since that day would seem to indicate an entirely different state of things, and that, instead of Aidzu surrendering, his enemies, the southerners, are surrendering to him.

The reports from different quarters, though not by any means reliable, therefore, are quite unanimous in this respect, that they seem to show that the northerners are now slowly advancing on Yedo, both from the north and the east. *Of this, at all events, there is no doubt*, that since yesterday the southerners in Yedo are pulling down houses, occupying

bridges and other positions in force, as if the capital might need to be defended.

From information I received, I am inclined to think that the snow has put an end to the campaign this year; that the southerners are now preparing to go into winter quarters, principally in Yedo, but that they will not be permitted to recruit in peace and comfort; though I do not believe, on the other hand, that the northerners are either in condition or sufficiently well armed at present to attempt driving their enemies out of the capital and back to their homes.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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[Translation.]

There is nothing, in ancient or modern times, to compare with the outrageous deeds of the rebel Satsuma. He brought disaster upon the Miya Sama, and caused severe punishment to be inflicted upon the guiltless Lord Jokugawa Yokinobu, who, being debarred from representing the injustice of the rebel, and while doing penance, came near being deprived of his life. The Miya Sama, considering the friendship between Yokinobu and himself, felt sympathy for him, and hastened, in the latter part of the 2d month, to proceed to Sumpu (Suruga) for the purpose of clearly pointing out to the Mikado's envoy that the Lord Yokinobu was free from guilt. He saw the envoy, to whom he fully stated everything, and explained the occurrences at Fushimi, (battle in February last,) when Satsuma stepped in and told him, in the name of the Mikado, that Tokugawa Yokinobu would be liberally dealt with, and there should be no apprehension of his property and family rights, provided substantial proof of his submission be given. Although the Miya Sama placed no confidence in those assurances, which he knew would never be fulfilled, he returned to Yedo and fully communicated with the Lord Yokinobu. As it could not be proven that this was not the Mikado's order, it was determined to comply. Yorkinobu accordingly surrendered to the Mikado's court the castle, which had been in possession of Jokugawa since the days of their earliest ancestors, and withdrew to Mito. Arms, ships of war, &c., were also surrendered, and nothing, as far as in his power, was left undone to prove his submission to the Mikado's court; and yet all this, notwithstanding a punishment as severe as that of a Mikado's enemy was inflicted, and himself sent into exile. The Miya Sama, whose sympathy had proportionately increased, often addressed the Mikado's representative in writing, urging a liberal treatment of Yokinobu, but in vain; by Satsuma's interference those letters were intercepted, and never reached the representative.

Satsuma's villany was not yet complete; the Miya Sama's ability might succeed in defeating his schemes, and he determined to get him out of the way; he therefore urged his immediate departure from Yedo for Kioto.

And when the people of Yedo and the surrounding districts heard of this, they were deeply moved, and they memorialized the Miya Sama, entreating him not to go to Kioto. He was touched by their sincerity, and postponed his departure.

Then Satsuma, pretending to act under orders of the Mikado's envoy, strongly urged him to take up his residence in the castle, where it was intended to keep him in confinement, but on the ground of illness compliance was declined. When many other contrivances to get rid of him had failed, Satsuma at last entered into agreement with Sanjo Sane Yorhi and others, and suddenly, on the fifteenth day of the fifth month, attacked Toeisan (Wuyeno) by force of arms, set fire, by means of shells, to Chindo and several other temples in which the sacred writings of the Mikados, under their autographs, were preserved, and also to the Miya Sama's palace—murdered the priests and plundered their property, and, after thus fully satisfying their greed and cruelty, a vigorous search for the Miya Sama was made.

As Mikosau had already been occupied by the rebel troops, the Miya Sama had no other alternative than to go to Mutsu and Dewa, where the Daimios had solemnly entered into a defensive alliance. The dignity of the blood imperial notwithstanding, he was compelled to disguise himself in the garb of one of the lower classes, and to go to those distant provinces, where, after encountering the perils of the sea, and traveling over rough roads, he met those Daimios on whom he imposed the duty of putting down the rebel and purging the Mikado's court of all his villanies.

By decree of the late Mikado the person of the Miya Sama was declared sacred. He is thoroughly devoted to his religious duties, and he intends, therefore, to relieve the people from their great suffering, in accordance with the principles of the Buddhist religion, which prescribe benevolence and forbearance under insult. The suffering the people are now enduring is solely owing to the rebel Satsuma. The Miya Sama, therefore, the bounds of forbearance having been overstepped, intends to destroy this rebel, and thereby to restore peace and happiness to the people.

The evil deeds of Satsuma have reached such a depth, that the sun may fall on the earth, and the ocean may dry up to the bottom, rather than that we should live in the same world with that rebel.

All are now called upon to prize the Miya Sama's views, and gird up their loins, in order that the clouds by which the sun is now obscured be cleared up, and the Miya Sama may return to Toeisan, (in Yedo.)

This proclamation to all is issued with the object of acquainting the people with the Miya Sama's views, that they may fully comprehend the true circumstances, lest they compare current events with those of former times, when a northern and southern Mikado's court had a temporary coexistence.

Seventh month of Tatsu, (fourth year of Kuro.) (September, 1868.)

Office of the Council of Matsu Dewa and Etshingo.

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### *Mr. Van Valkenburgh to Mr. Seward.*

No. 120.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 23, 1868.

SIR: A report reached me from the seat of war which is so characteristic of the nature of the strife and of the combatants that I hasten to communicate it. I sincerely hope it will prove exaggerated, though the person from whom I received it is well educated, generally well informed, and has no leaning towards either party. It appears, then, that a grand concerted movement was undertaken on the part of the southern and western Daimios' forces under the Mikado's flag, to crush the Prince of Aidzu and his people.

The Prince of Aidzu, related to the Tokugawa family by intermarriage and adoption, has held from time immemorial the hereditary office of military commandant of Kioto under all the Tycoons of Japan. Aidzu soldiers guarded the Mikado's palace until last spring, when, by Satsuma's bold *coup de main*, they found themselves ousted, and were defeated by that Daimio's riflemen in the battle of Yedo or Furhimi.

The territory of Aidzu, at a distance of about two hundred miles north from Yedo, is on high table-land at an elevation of probably four thousand feet, and surrounded on all sides by mountains. There are nine roads leading to it, and these are narrow, steep, and rough. The people are hardy mountaineers and used to those roads; to others these highlands are said to be almost inaccessible during the greater part of the year.

The southerners advanced in three bodies, one from the northwest, the second from the west, and the third or last corps from the south; the latter arrived first, slowly and cautiously approached the town and castle of Wakamatsu, and halted. This castle, the Prince of Aidzu's residence, is situated near a lake, and is reputed capable of being long and easily defended. Aidzu was no doubt apprised of the approach of his enemies, as all the people who dwell along the road had vacated their houses and removed towards their prince's stronghold, and on the roads by which the two other bodies of troops entered the territory the houses were also found deserted. As soon as the southerners came in sight, eighteen officers, in dresses of ceremony and preceded by a white flag, left the castle and proceeded to their enemy's camp. They introduced themselves as superior officers of Aidzu, gave their names and rank, and stated that as they were the principal instigators of the action of their prince, than whom

to serve well they had no higher ambition, they had come to lay down their lives in his behalf; and in accordance with established usage one of their number would lead the Kangung (enemy's forces) into the castle and perform harakiri afterwards; the other seventeen officers begged to be permitted to do so at once. These seventeen men then seated themselves in line, and with perfect military precision went through their self-imposed doom, cutting deep, as that part of the ceremony which consists of a friend standing behind to cut off the head was on this occasion dispensed with. They soon expired, and it was then determined to dispatch a body of five hundred picked men in company of the only remaining Aidzu officer, to take possession of that prince's castle. It appears that this body had scarcely left on that mission, when the skirmishers of the two army corps which had entered by the northwestern and western roads were perceived approaching, and therefore that a junction had successfully been effected between the different parts of the southern army. The five hundred picked men were seen entering the castle; the gates were closed, and then those men were all killed outright. This was the first result of Aidzu's strategy. The southerners continued coming across the mountains, and, while waiting for some signal from those who had entered the castle, the waters of the lake were turned on the fields and roads, and the southerners, suspecting an ambush, began to retreat by the same roads by which they had come. On the way they met those who were still advancing; the retreat became a rout. Aidzu men of all classes, even women, it is said, joined in pursuit. Some of the southerners were killed, some wounded, many drowned, and many taken prisoners. Their total loss, it is estimated, cannot fall short of twenty thousand men. A heavy snow storm overtook them on the way; the snow was soon between five and seven feet deep, and this added considerably to the casualties.

I repeat that I sincerely hope the above account may prove exaggerated; horrible as it is in its details, it illustrates the determined and savage character of the struggle; it is quite in keeping with the mode of warfare as practiced among this people in ancient times, with this exception, if my informant is to be relied on, that many prisoners have been made, and that these prisoners will be treated with humanity and kindness.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 122.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 24, 1868.

SIR: By an arrangement accepted on behalf of Tokugawa Kamenoske, his daimiate of a revenue of seven hundred thousand koku is to consist of the provinces of Suruga and Totomi and a large portion of the province of Mikawa. Further arrangements are now in progress according to which all small Daimios and other land owners in those provinces are to vacate their respective properties, in lieu thereof receiving landed property elsewhere.

Tokugawa thus becomes the sole lord of the soil in these three provinces, excepting a portion of Mikawa; the latter is not very productive, but the two first named embrace the great tea-producing districts of Japan. By proper management I learn this tea cultivation is capable of great extension; and as a corresponding increase of revenue is sure to flow from sound legislation, no pains will be spared to attain such a result. Several tea plantations, hitherto neglected from many causes, will now receive careful attention; the tea farmers are to be encouraged and protected, and there is every reason to believe, therefore, that during the next year the exportation of tea from this country to the United States will be much larger than heretofore, and that this increase will be steady and progressive.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 124.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 24, 1868.

SIR: Two foreigners, who had been employed on board of a steamer operating in the service of the southern and western Daimios on the west coast, recently returned overland to Hiogo, their vessel having been laid up for the winter at Hanao, in the province of Noto, belonging to the neutral Prince of Kaga. Their report confirms the intelligence previously received, that heavy gales visited the northern coasts of Niphon during the months of September and October; that no less than six steamers belonging to those Daimios were driven ashore, and that one brig was totally wrecked at Neegata.

From Nagasaki I learned that the Prince of Hizen recently bought no less than three small foreign steamers; and this would seem to indicate that, in the opinion of that prince at least, the present convulsion, to use the language of the chief Tokugawa officers, has not yet arrived at maturity.

I have the honor to be, sir, your most obedient servant,

R. B. VAN VALKENBURGH,

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*Mr. Van Valkenburgh to Mr. Seward.*

No. 125.] LEGATION OF THE UNITED STATES,
*Yokohama, November* 25, 1868.

SIR: I have the honor to inform you that yesterday a procession of Japanese, said to contain the Mikado, passed through Kanagawa on its way to Yedo. No one being favored with a special invitation, I did not go to see it. The eyes of many were strained to catch a glimpse of the Mikado, but in the imperial sedan chair no occupant could be discerned. It is generally believed, however, that this distinguished personage was actually present.

I transmit inclosure No. 1, a description of the procession from one of the local papers.

I have the honor to be, sir, very respectfully, your most obedient servant,

R. B. VAN VALKENBURGH.

Hon. WILLIAM H. SEWARD,
*Secretary of State, Washington, D. C.*

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*The Mikado's procession.*

Notifications having been published from the Japanese authorities and the foreign consulates that the Mikado would leave Fugisawa, en route for Yedo, at 6 a. m. on Tuesday, the 24th instant, and that a place had been set apart where foreigners might witness the procession, some excitement was caused in community; and crowds, some in carriages, others on horseback, and the majority on foot, besides an immense number of Japanese, flocked out to Karuisawa to enjoy the spectacle of a live Mikado passing along the tokaido. Sheds had been erected on the side of the tokaido for the accommodation of foreigners. Some occupied them from early morning, but most left the settlement between 1 and 2 o'clock p. m., arriving on the ground between 2 and 3. Notices in English were posted up that "foreigners were requested not to cheer whilst his Majesty the Mikado was passing;" and the only amusement during a couple of hours was watching a Japanese officer galloping up and down, with a flag fastened to his back, and making bets whether the mysterious individual would come or not.

At 3 p. m. detachments of English and French soldiers, accompanied by their bands, took up position on the tokaido. Close on 3.30 p. m. the sounds of music were heard, and immediately a murmur was heard "he is coming," and then the procession hove in view. Japanese small officials began shouting staniero, and immediately the crowds of native spectators crouched down on their heels and became silent as the dead. It was something wonderful, that crouching crowd, from whom not a sound was heard; and the more striking, as contrasting with the hum and laughter all along the line of foreigners who occupied about a hundred yards on one side of road.

It is hard to describe the procession, for many of its parts were so totally different from anything that foreigners are in the habit of seeing, that nothing but a drawing could convey anything like an approximate idea. It was after this style, however:

A band of drums and fifes.
Eighty soldiers.
The Mikado's flag.
A band of drums and fifes.
Fifty soldiers.
The Mikado's flag.
A band of drums and fifes.
Ninety soldiers.
One mounted officer and followers.
Coolies carrying baggage.
Mikado's flag.
A band of drums and fifes.
One hundred and eighty soldiers.
Three mounted officers.
Followers.
Coolies carrying baggage.
Three mounted officers.
Followers.
Two peculiar shaped kangos carried on coolies' shoulders, (said to be tabernacles.)
Two mounted officers.
Coolies carrying baggage.
Officers on foot.
Six mounted officers.
Followers.
Two mounted high officers, in white.
The imperial norimon, carried by twenty-four one-sworded bearers.
Two mounted officers.
A norimon supposed to contain the Mikado, three led horses highly decorated.
Four mounted officers.
Coolies carrying baggage.
A norimon.

Followers.
The Mikado's flag.
Eighty-two soldiers.
One mounted officer.
Twenty soldiers.
Coolies carrying baggage.
A flag with a white border.
Thirty soldiers.
A band of drums and fifes.
Seventy soldiers.
Two mounted officers.
One hundred and twenty soldiers.
A band of drums and fifes.
Thirty soldiers.
One mounted officer and followers.
Two flags.
A band of drummers.
One hundred soldiers.
Coolies carrying baggage.
One mounted officer.
A band of drums and fifes.

Forty soldiers, and an endless train of officers in kangos, and coolies carrying baggage.

This was the long-talked-of procession. All the foreigners expressed their disappointment in strong language. Many questioned whether, first, his Majesty was there at all; secondly, because the whole turnout presented such a miserable aspect—the soldiers seemed to be a collection of old men and boys dressed in semi-European style, and armed with a variety of rifles, generally breech-loaders, that looked as if they were more dangerous to themselves than to any enemy who might attack them. Amongst the mounted officers were three or four Daimios, but to the uninitiated no difference could be seen between them and the other mounted officials. The appearance of many of the soldiers afforded a good deal of amusement to the foreign spectators. Some of those warriors wore immense wigs of horse-hair under their paper chapeaux, covering up their faces, and contrasting most ludicrously with their attire of black frock coats, trowsers, and grass sandals. The bands of the various Daimios' contingents were confined to drums and fifes, and, if the melody they played was not very spirit-stirring, they kept most excellent marching time, and the drumming was first-rate.

We have taken pains to ascertain whether the Mikado actually was in the procession, and we have every reason to believe that he was, and that he occupied the kango following the large norimon.

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